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(209)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-34126-2024

Date of Decision: 05.09.2024

HARISH

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Siddarth, Advocate
for the petitioner.

Ms. Shubhra Singh, AAG, Haryana.

JASJIT SINGH BEDI, J.

The prayer in this 3rd petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.151 dated 10.06.2020 registered under Sections 302, 34 and 120-B IPC, 1860 and Sections 25-54-59 of Arms Act at Police Station Farrukh Nagar, District Gurugram.

2. The present FIR came to be registered at the instance of Amardeep Sethi son of Jagbir Singh and the same reads as under:-

“Statement of Amardeep Sethi son of Jagbir Singh r/o village Patli, District. Gurugram. M-9910543747 stated that I am the resident of abovesaid address and I am an agriculturist. We are two brothers and one sister. We all are married. At around 2 months ago, at the time of lockdown, Vikash Diljale son of Liluram, resident of our village had to come at village Khor from Sample alongwith the country made liquor of Premjeet Khorla through me in his I-20 vehicle No. HR- 76-7734 who had to get Rs.350/- per box, however,



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the vehicle filled with the liquor alongwith his friend Kalu s/o Krishan resident of village Patli was apprehended by the CIA Jhajjar, then, Vikas Diljale asked me that you will have to pay the money for the entire liquor then I asked that I do not have any role, so I will not pay. If the liquor reach at village Khor then I pay the money. In this regard, some altercation was taken place between us 1-2 times. At around 20-25 days ago, first Vikash Diljale asked me in the village either pay the money or I will see you. On account of this, he kept grudges with me. Today, at around 08:30 PM, I and Anil Kumar s/o Rampat resident of my village were consuming liquor inside the room constructed at my plot then a young boy, white colour, long hair, aged around 20/22 years came to me and started saying that give the half of country made liquor then I asked that I have stopped selling the liquor then he went outside and as he reached near the White Colour Breeza Car parked in the street outside my plot then I also chased him then the boy sat in the car and the driver of the car turned the car then two young boy alighted from the car and out of which one asked that give the good and on hearing this, I ran away in the street and hid in the Old Haveli. During this period, I heard the noise of many gunshots then I scared and I gave information to the Jagbir brother of Anil from the phone of a neighbour that someone had fired gunshot upon the son of your uncle at my plot. Many persons gathered at our plot and after several time, I being scared reached at the spot and the blood and gunshot were lying in the room and Partish and other family members of Anil has brought him at the Hospital. Upon which I also reached at Medanta Hospital and when inquired then came to know that Anil Kumar died due to suffering of the gunshots. Vikash Diljale alongwith his 2-3 accomplices have committed this occurrence. I got recorded my statement. Heard. The same is correct. Sd/- Amardeep Singh.”

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3. The learned counsel for the petitioner contends that the petitioner was not named in the FIR. He came to be nominated as an accused during the course of the investigation. Be that as it may, Amardeep Sethi alias (PW3), the complainant had not supported the prosecution case and was therefore declared a hostile witness. Jagbir son of Raj Singh was examined as PW-8. While deposing in Court, he only identified Manjeet Singh son of Rajbir and Vikash. However, the petitioner had not been identified. As he was in custody since 19.06.2020 but only 09 of the 49 prosecution witnesses had been examined so far, the Trial of the present case was not likely to be concluded anytime soon and therefore, he was entitled to the concession of bail even though he was a habitual offender with multiple cases registered against him.

4. A reply dated 04.09.2024 by way of an affidavit of Sukhbir Singh, HPS, Assistant Commissioner of Police, Pataudi, Gurugram has been filed on behalf of the State by the learned counsel for the State. The same is taken on record. She contends that as per the investigation, co-accused Brijesh along with co-accused Manjeet, Vikash and the present petitioner had visited the place of occurrence where the deceased Anil and Amarjeet were consuming liquor. Vikash and Manjeet were wielding a pistol and they went inside and shot at the deceased. Co-accused Brijesh along with co-accused Vishavjeet stood guard outside and the petitioner was sitting in the Brezza car waiting for the assailants to finish their job so that he could flee from the spot. Further, the petitioner was an accused in multiple other cases and as

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such, his criminal antecedents did not entitle him to concession of bail as prayed for. She, however, concedes that he was in custody since 19.06.2020 and that only 09 of the 49 of the prosecution witnesses had been examined so far.

5. I have heard the learned counsel for the parties.

6. The veracity of the prosecution case against the petitioner and his co-accused shall be adjudicated upon during the course of the Trial. Even as per the case of the prosecution, the petitioner is not stated to be one of the actual assailants. He is custody since 19.06.2020 but only 09 of the 49 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. In this situation his further incarceration is not warranted even though he is an accused in multiple other cases.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Harish son of Naresh is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the Trial and inform in writing each time that he is not involved in any other crime other than the cases mentioned in this order.

9. If the petitioner or his family members/associates make any attempt to contact/threaten/intimidate the witnesses in the present case, the

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State would be at liberty to move an application for cancellation of bail granted vide this order.

10. The petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.2,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

11. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

05.09.2024

JITESH

Whether speaking/reasoned:- Yes/No**Whether reportable:- Yes/No**