

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

228

CRM M-34585 of 2023
Date of Decision: 15.01.2024

Nijamuddin @ Nehna @ Kala

...Petitioner

Versus

State of Haryana

... Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Ms. Malkiat Kaur, Advocate, for
Mr. Mohammad Arshad, Advocate
for the petitioner.

Mr. Gaurav Gurcharan Singh Rai, DAG, Haryana.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the instant petition under Section 439 of the Cr.P.C. with a prayer to grant a regular bail in case FIR No.36 dated 04.02.2020 registered under Sections 302 and 397 IPC (later on added offences under Sections 25/54/59 of Arms Act, 1959 and Section 201 of IPC) at Police Station Punhana, District Nuh-Mewat.
2. The FIR in the present case was registered on the basis of the statement made by Ved Prakash Soni son of Govind Ram Soni. As per him, he was staying with his family members in Ballabgarh, District Faridabad, whereas, his parents were living in Ward No. 8, Punhana. His father Govind Ram Soni was running a jewelry shop. At about 06.15 p.m. on 04.02.2020, he received a telephonic information that his father had left his jewelry shop and was carrying the valuable

jewelry in a bag. At about 06.25 p.m., when he reached near his house, on hearing the noise “save me save me”, his mother Usha rushed outside and saw that his father was lying unconscious in the street. Prince and Sachin took his father to Dr. Ombir and the doctor had declared his father to be dead. Some person had caused injury with some sharp edged weapon just below the left side of the chest of his father and had looted the jewelry. They had committed the murder of his father, while taking away the jewelry, which was kept by his father in the bag and prayed for taking action against the accused. With these main allegations, the FIR was got registered by the complainant in the present case.

3. Learned counsel for the petitioner contends that the FIR was initially registered against the unknown persons and the petitioner was not named in the FIR. She further contends that in the present case, no test identification parade was conducted by the police and the petitioner was wrongly arrested on 12.02.2020. Learned counsel further contends that the recovery of the jewelry and the mobile is shown to be recovered from the present petitioner illegally. Rather the jewelry and the mobile were planted on the present petitioner. She further contends that out of 31 witnesses, 09 witnesses had been examined and the petitioner deserves the concession of bail by this Court. Learned counsel further contends that even as per the FSL report, Ansar co-accused had fired shots and the petitioner has been wrongly arrayed as an accused in the present case.

4. On the other hand, learned State counsel has vehemently argued that the petitioner had actively participated in the commission of the crime alongwith other accused. During the course of investigation, Akram and Ansar, co-accused were arrested in the present case, after finding sufficient evidence against them. They had made disclosure statements and as per the said disclosure statements, the present petitioner as well Munsharif were also involved in the offence. The country made pistol used in the commission of the offence was recovered from Akram, co-accused and two live cartridges were also recovered from him. Accused Ansar also got recovered .32 pistol alongwith live cartridges in the present case and the case property was sent to the FSL, Madhuban. Learned State counsel further contends that the present petitioner was clearly visible in the CCTV footage, obtained by the police during the course of investigation from the place near the place of occurrence. He further contends that the jewelry, belonging to the deceased as well as mobile phone of the deceased were recovered from the present petitioner. Thus, it is apparent that the petitioner and his co-accused had looted the jewelry from the deceased and also committed the murder of Govind Ram Soni. Learned counsel further contends that the petitioner was involved in killing Govind Ram Soni and after killing him, the jewelry was looted from his bag, which was recovered from the present petitioner also.

5. Having heard learned counsel for the parties and perusing the record, this Court is of the considered opinion that the present petition deserves to be dismissed. During the course of investigation, Akram and Ansar were arrested by the police. However, both the said witnesses had clearly stated that the petitioner was also involved in killing Govind Ram Soni, since deceased. Apart from that, the murder was committed by the accused to take away jewelry from the deceased and the stolen jewelry as well as mobile of the deceased were recovered from the present petitioner. At this stage, there is no evidence to indicate that the alleged recovery was planted on the petitioner by the police. Even otherwise, the petitioner has assigned no reasons as to why he had been falsely involved by the police in the present case. Apart from that, even though, the petitioner is in custody since long, however, the gravity of the offence cannot be overlooked by this Court. Apart from that, the co-accused of the petitioner are hardened criminals and may also influence the witnesses of the prosecution. Still further, 9 witnesses out of 31 witnesses have already been examined by the prosecution. Consequently, it would be appropriate to direct the trial Court to expedite the trial and conclude the same preferably within a period of 06 months from today.

6. Dismissed.

15.01.2024

amit rana

(N.S.SHEKHAWAT)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No