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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

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Date of decision: 13th September, 2024

Sumit

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Rajesh Bansal, Advocate for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J (ORAL):-

The present petition has been filed by the petitioner seeking grant of regular bail in case bearing FIR No. 26 dated 14.01.2023 registered under Sections 302, 341 and 34 of IPC, 1860 and Section 25 of Arms Act, 1959 (Sections 120-B, 201, 216 of IPC and Section 27 of Arms Act and Section 42 of Prison Act, 1894 added later on and Section 25 of Arms Act deleted) at Police Station Gohana, City and District Sonipat.

2. In the nutshell, the case of the prosecution is that on 14.01.2023, the complainant Subhash lodged a written complaint alleging therein that on the same day, at about 12:00 PM, his family members informed him about the death of his brother Azad who along with his nephew Vinod had gone to their fields near Village Naiyawala to irrigate the



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same. It was informed that two unknown youths had reached their fields in a motorcycle and had opened fire upon Azad, resulting into his death. The complainant immediately rushed towards the place of occurrence and found dead body of his brother to be lying there. Some bullets and empty cartridges were lying near the dead body and one Platina motorcycle bearing registration No. HR-11M-8112 was standing at the *Kacha* path. He prayed for taking action in the matter.

3. After registration of FIR, investigation proceedings were initiated. The post mortem examination of dead body was conducted. Inquest proceedings were also conducted. During investigation, accused Manish @ Kuku was arrested on 13.02.2023. Co-accused Sandeep @ Chhota Saini and Anil Kumar @ Sinta, Deepak, Rahul and Amit were arrested subsequently. The petitioner was nominated as an accused in the disclosure statement of accused Vicky. Since he was in custody at that time, therefore, production warrants were got issued against him and he was arrested in this case on 17.06.2023. He was interrogated and suffered disclosure statement admitting his complicity in the murder of the victim by hatching a conspiracy with the co-accused Rahul and Manish. Investigation has since been completed.

4. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. He is in custody since 17.06.2023 in this case. He is in continuous custody since the last four years and nine months. The co-accused Armaan @ Gulfam has been extended benefit of regular bail. He was not named in the FIR and has been nominated as such on the



basis of disclosure statement of the co-accused which cannot be considered to be admissible in evidence. No recovery has been effected from him. The only role attributed to him is that he had hatched conspiracy with the co-accused and murder of deceased Azad, though there was no probability to do so as he was in jail at the time of incident. No incriminating evidence could be collected against him. Trial is likely to take time. No useful purpose would be served by detaining him in custody. Therefore, it is urged that he deserves to be extended benefit of bail.

5. The respondent-State has filed status report. It is argued by learned State counsel in terms of this report that there are serious allegations against the petitioner. He was named by the co-accused. He hatched conspiracy with the accused Manish @ Kuku and Rahul to eliminate the victim Azad and in pursuance of that conspiracy, the co-accused Vicky and Sandeep had murdered the victim. In connivance with the petitioner, the co-accused Durgesh had harboured the co-accused Vicky and Sandeep, after they committed murder of the victim. His complicity in the commission of subject offence stands established. He has criminal antecedents since as many as thirteen cases which are serious in nature have been registered against him. There are chances of his absconding. Hence, it is urged that the petitioner does not deserve to be extended benefit of bail.

6. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record carefully.

7. As per the allegations, the petitioner had hatched a conspiracy

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with co-accused Rahul and Manish to kill the victim Azad as accused Manish suspected that the victim had a hand in murder of his uncle Rishipal and they had joined accused Vicky in the said conspiracy by making calls through phone while being lodged in the jail itself and in pursuance of that conspiracy, the co-accused Vicky @ Vikas, Sandeep @ Chhota Saini had murdered the victim Azad. The role that has been attributed to the petitioner is of hatching conspiracy with the co-accused Rahul and Manish for eliminating the victim and on his asking the escape of co-accused Vicky and Sandeep had been harboured by the accused Durgesh. Copy of disclosure statement of the accused Manish has been annexed with the status report as filed by the respondent-State and a perusal of the same reveals that he did not say that he had hatched any conspiracy with the present petitioner for eliminating the victim. The petitioner has been nominated as an accused on the basis of disclosure statement of co-accused Rahul whereby a specific part has been attributed to him. In his own disclosure statement also, he is shown to have stated that he along with co-accused Rahul and Manish while being lodged in jail in some other case had hatched a conspiracy to kill the victim, had facilitated the said occurrence and it was at his instance that the co-accused had harboured the main assailants namely Vicky and Sandeep. The allegations against him are serious in nature. His antecedents are not clean, since as many as thirteen cases, one of which is a case under Section 302 of IPC have been registered against him. He is also shown to have committed jail offences. The material witnesses are yet to be examined, there are chances of petitioner's intimidating the witnesses, if extended



benefit of bail. There is nothing on record to show that there would be any undue delay in conclusion of the trial. As per the discussion so made, it is held that no ground is made out for allowing the petition. Hence, the same is dismissed.

8. It is, however, clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

9. Since the main petition has been dismissed, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

13th September, 2024
Parveen Sharma

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|-------------------------------|---|----------|
| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |