



CRM-M-35539-2024

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH
220 CRM-M-35539-2024
Date of decision: 16th September, 2024

Manish @ Kuku

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. P.S. Sullar, Advocate for the petitioner.
Ms. Nidhi Garg, 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 read with Section 34 of IPC and Section 25 of Arms Act, 1959 at Police Station Gohana City, District Sonipat.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of a written complaint filed by the complainant Subhash on 14.01.2023 alleging therein that on the same day at about 12:00 PM, on receiving information from his family members that his younger brother Azad who along with his nephew had gone to water their fields, had been killed by two unknown youths, the complainant rushed there and found the dead body of his brother Azad lying on the unpaved road in front of their fields. The assailants had left their Hero Honda make motorcycle bearing registration No. HR-11A-5415 at the spot. After registration of FIR, investigation proceedings were



initiated. Postmortem examination of the dead body of the victim was conducted. During investigation, co-accused Parveen was arrested. He suffered disclosure statement disclosing the name of the petitioner on the basis of which, the petitioner was arrested on 13.02.2023. Subsequently, co-accused Sandeep @ Chota Saini, Anil Kumar @ Sinta, Amit @ Ankit, Deepak, Rahul, Vicky @ Vikas and Sumit @ Pinni were also arrested. Presently, the petitioner along with co-accused is facing trial for commission of the aforementioned offences. An application moved by him before the learned trial Court for grant of regular bail which was dismissed vide order dated 09.01.2024.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. He was not named in the FIR. The complainant was not eye-witness to the occurrence. The petitioner had been nominated as accused on the basis of disclosure statement of co-accused. He was not the assailant rather as per the prosecution case, the accused Vicky @ Vikas and co-accused had killed the victim. He was lodged in Central Jail, Hisar at the time of occurrence. He is alleged to have hatched a conspiracy with the co-accused to kill the victim. No evidence has however, been collected by the prosecution to connect him with the offence of hatching such conspiracy. The disclosure statement of co-accused cannot be considered to be admissible in evidence qua him. His own disclosure statement is also not admissible as no new or distinct fact has been discovered in pursuance thereof. The trial is likely to take time. No useful purpose would be served by detaining him in custody. With these broad



submissions, it is urged that the petition deserves to be allowed. To fortify his arguments, learned counsel for the petitioner has placed on reliance upon authorities cited as *Sheikh Javed Iqbal @ Ashfaq Ansari @ Javesh Ansari Vs. State of Uttar Pradesh, 2024(3) RCR (Criminal) 609* and *Surender @ Sarpanch Vs. State of Haryana, 2024(3) RCR (Criminal) 744*.

4. Status report has been filed by the respondent-State. It has been argued by learned State counsel that there are serious allegations against the petitioner. The petitioner while suspecting that the victim Azad had a hand in the homicidal death of his maternal uncle Rishipal, had hatched a conspiracy with the co-accused and in pursuance thereof, the accused Vicky and Sandeep had killed the victim on 14.01.2023 by firing shot with a pistol upon him. The trial has commenced. The petitioner has criminal antecedents since as many as seven other cases have been registered against him. There are chances of petitioner's absconding or intimidating the witnesses, if extended benefit of bail. Therefore, it is argued that the petition does not deserve to be allowed.

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

6. The petitioner is initially alleged to have hatched a conspiracy with the co-accused Rahul @ Nanna and Sumit while being lodged in Central Jail, Hisar to kill the victim and is further alleged to have joined other co-accused namely Vicky, Sandeep and Gulfam in the said criminal conspiracy. As per prosecution case, in pursuance of that conspiracy, the co-



accused Vicky and Sandeep had killed the victim as on 14.01.2023. The allegations against the petitioner are quite grave in nature. He does not have clean antecedents since as many as seven other cases, one of which is a case for committing jail offence, have been registered against him. No doubt, the trial is likely to take time since even charges have not been framed so far. However, there is nothing on record to show that there would be any undue delay in conclusion of the same. The judicial pronouncements as cited by learned counsel for the petitioner are not pertaining to a case under Section 302 of IPC and are not applicable to the peculiar facts of the case at hand. It is well settled proposition of law that the orders passed in bail applications/petitions are not having any precedental value. Keeping in view the nature of the allegations as levelled against the petitioner which show him to be master mind behind the death of the victim, the quantum of sentence which the conviction may entail and the attendant facts and circumstances of the case but without meaning to make any comment on the merits thereof, I am of the considered opinion that the petition does not deserve to be allowed. Hence, the same is dismissed.

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

[MANISHA BATRA]
JUDGE

16th September, 2024

Parveen Sharma	1. Whether speaking/ reasoned	:	Yes / No
	2. Whether reportable	:	Yes / No