



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

221

CRM-M-36607-2024 (O&M)
Date of Decision: 16.09.2024

DEVENDER @ MINTU
STATE OF HARYANA

....Petitioner
VERSUS
....Respondent

CORAM : HON’BLE MRS. JUSTICE MANISHA BATRA

Present : Mr. Sandeep Gahlawat, Advocate for the petitioner.
Ms. Nidhi Garg, AAG, Haryana.
Mr. Ajay Ghangas, Advocate for the complainant.

MANISHA BATRA, J. (Oral)

1. The instant one is the second petition for grant of regular bail as filed by the petitioner in case arising out of FIR No.217 dated 05.07.2021, under Sections 302 of the IPC and Sections 25 and 27 of Arms Act, 1959 registered at Police Station Badli, District Jhajjar. His previous bail petition bearing CRM-M-39325-2022 was dismissed by this Court vide order dated 01.08.2023.
2. Briefly stated, the aforementioned FIR had been registered on the allegations that on 05.07.2021, the dead body of the father of the complainant was found lying at Badli Jhajjar Road near Indo Space Company, Village Pahsor and some unknown person had killed him by firing a shot in his head. After registration of FIR, investigation proceedings were initiated. Postmortem examination of the body was conducted. During investigation, the petitioner was arrested on 16.07.2021 in pursuance of his



disclosure statement recorded in case arising out of FIR No.229 dated 13.07.2021 under Section 307 IPC and Sections 25 & 27 of Arms Act, at Police Station Badli-Jhajjar. After completion of usual formalities of investigation, challan was filed in the Court and presently he is facing trial before the learned trial Court.

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. It was a case of blind murder. He had been implicated on the basis of disclosure statement allegedly suffered by him in another case. This statement is not admissible in the eyes of law and hence cannot be taken into consideration. He is in custody for a period of more than two and a half years. The trial is going at snail's pace. Material witnesses have since been examined. His further detention would not serve any useful purpose. As per FSL report, the cartridge and bullet recovered from the spot of occurrence had not been fired from the country made pistol alleged to be recovered from the custody of the petitioner. His previous bail application was decided on 01.08.2023. A period of more than one year has passed since then which has extended him a new ground to seek benefit of bail. Therefore, it is argued that he deserves to be released on bail.

4. Status report has been filed by the respondent-State. Learned State counsel assisted by counsel for the complainant who has filed vakalatnama in the Court today only, has strenuously argued that there are serious allegations against the petitioner. No new ground has been made out for allowing the petition. His petition being successive bail petition is not



maintainable. At the time of disposal of previous bail petition, all the contentions as raised by counsel for the petitioner now had also been taken into consideration. Most of the prosecution witnesses have already been examined. The petitioner has criminal antecedents. He is involved in 11 criminal cases. He was even declared a proclaimed person in one of such cases. There are chances of his absconding if extended benefit of bail. Hence, it is urged 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 first bail petition filed by the petitioner bearing CRM-M-39325-2022 was dismissed vide order dated 01.08.2023. All the contentions now raised by learned counsel for the petitioner before this Court had been raised at that time also. No new ground has been taken in this petition. It is well settled proposition of law that when successive bail applications come before the Court, the Court should be very cautious while considering the same. Successive bail applications can be entertained by the Court when some substantial change is established by the accused thereby making him entitled for grant of bail. Reference in this regard can be made to ***State of Maharashtra Vs. Captain Buddhikota Subha Rao, AIR 1989 Supreme Court, 2292***, wherein it was observed so and it was further held that the Court should not pass an order of release of an accused on bail in successive bail application merely establishing some cosmetic change between time gap of two applications. There must be some drastic change



during the period between two applications. Reference can also be made to *Kalyan Chandra Sarkar Vs. Rajesh Ranjan @ Pappu Yadav and another (2004) 7 SCC 528*, wherein it was observed by Hon'ble Supreme Court that where the offence alleged against an accused is grave, bail cannot be granted only on the ground of long incarceration.

7. On considering the contentions as raised by the petitioner, this Court is of the considered opinion that no substantial or drastic change has been found from the date of dismissal of his previous petition for grant of bail. Merely prolonged period of incarceration is not a ground to extend any such benefit. 15 out of 18 witnesses have since been examined. The trial is at its fag end. The petitioner is a person of criminal antecedents. He had even been booked for commission of offence punishable under Section 174-A of IPC. Keeping in view the nature and gravity of the offence and as per discussion as made above but without commenting on the merits thereof, this Court is of the opinion that there is no fit case to enlarge the petitioner on bail. As such, the petition is dismissed.

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

16.09.2024

Deepak Patwal

(MANISHA BATRA)
JUDGE

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