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(216)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-36736-2024

Date of Decision: 12.09.2024

ROHIT

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Balraj Gujjar, Advocate
for the petitioner.

Mr. A.S. Chaudhary, Addl. A.G., Haryana.

JASJIT SINGH BEDI, J.

The prayer in this 2nd petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.141 dated 01.04.2022 registered under Sections 148, 149, 302, 307, 341 IPC, 1860 and Sections 25, 54, 59-A Act, 1959 at Police Station Gadpuri, Palwal.

2. The present FIR came to be registered at the instance of Krishan son of Ram Parsad and the same reads as under:-

“To Chowki incharge, Dhatir, I Krishan s/o Ram Parsad, caste Jaat is resident of village Ghatir and doing farming. My aunt/mausi expired one week ago and we all family was in state of mourning. That on dated 31.03.2022, I and my Aunt's son Ishwar @ Bhola s/o Om Parkash were going towards our fields, around 6:30 PM. When we reached near cremation ground just before BSNL Mobile Tower, then our way was



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blocked by Anil s/o Virender, Raju s/o Virender, Yogesh s/o Rambir, all residents of Ghatir and his 3-4 companions. They had illegal weapons. All three Anil, Yogesh and Raju took out weapons from their pockets and collectively fired shot on us with intention to kill. Then, I ran towards fields to save myself and my brother Ishwar @ Bhola ran towards street plots to save himself. There all grilled him and fired shots in indiscriminately on him. Thereafter, a black Scorpio came there wherein all accused persons alongwith weapons fled the spot. While going they were saying they have taken revenge of murder of Santram. I was watching them while standing at some distance. I can identify the driver of the vehicle in case coming before me, wherein, the all accused fled. I lost my phone during this episode. I immediately reached to the home and informed about this incident. Then all my family members Kapil s/o Ramdhan, my nephew reached at the spot and taken to my brother in a vehicle to Atlas Hospital, Sec-2, Palwal for treatment, but we could not get satisfactory reply and then immediately we taken our brother to Apex Hospital. There they informed that he is very serious and take into another hospital. Thereafter, we taken our brother to Govt. Hospital Palwal there doctor declared brought him dead. In the year 2011, my brother Ishwar and elder uncle Om Parkash had a dispute with Mahesh s/o Lekhi R/o Ghatir. A deadly attacked was caused to my elder uncle Om Parkash and brother Ranbir wherein both received serious injuries and on that grudge in the year of 2011, a FIR for the murder of Santram was got registered against my family members. That the both cases were settled by compromise. That above accused Mahesh s/o Lekhi has relation with gangster. We still have threat from them. Thus, it is requested that after

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registering FIR strict legal action be taken. Sd/- Krishan Dagar.”

3. After the registration of the FIR on 01.04.2022, the supplementary statement of the complainant was recorded wherein he also named Mahesh (since exonerated) and Rohit (petitioner) as accused in the present case along with three accused named in the FIR. As per the said statement, Anil, Raju and Yogesh had come on the scooty bearing No.HR 30Q 7462 and had fired at the deceased whereas Mahesh and Rohit along with 2-3 persons had come in a Scorpio bearing Registration No.HR 30X 4144 but no allegations of firing had been levelled.

On 17.10.2022, Krishan son of Maniram was arrested and Section 120B of IPC was added in the case.

4. The learned counsel for the petitioner contends that the petitioner is not named in the FIR but only in the supplementary statement of the complainant. Even in the said statement, no specific role had been attributed to the petitioner and it was Anil, Raju and Yogesh who had fired at the deceased. Mahesh who had been named along with the petitioner as having been travelling on a Scorpio had been exonerated. The Scorpio in question had never been recovered. He, therefore, contends that the petitioner was entitled to the concession of bail as he was a first-time offender, in custody since 06.01.2023 and only 03 of the 27 prosecution witnesses had been examined so far.

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5. A status report dated 06.09.2024 by way of an affidavit of Naresh Kumar, HPS, Deputy Superintendent of Police Palwal, District Palwal has been filed on behalf of the State by the learned counsel for the State. The same is taken on record. While referring to the reply, he contends that all the accused were part of an unlawful assembly came in two vehicles and committed the offence in question. The nature of the allegations did not entitle the petitioner to the grant of bail. He, however, concedes that the petitioner was named in the supplementary statement of the complainant and no specific role had been attributed to him. He also concedes that the petitioner was a first-time offender, in custody since 06.01.2023 and only 03 of the 27 of the prosecution witnesses had been examined so far.

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

7. The veracity of the prosecution case against the petitioner and his co-accused shall be adjudicated upon during the course of the Trial. Admittedly, the petitioner is a first-time offender, in custody since 16.01.2023 and only 03 of the 27 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 the further incarceration of the petitioner is not required.

8. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Rohit son of Ram Kishan is ordered to



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be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

9. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the Trial and in-form in writing each time that he is not involved in any other crime other than the present case.

10. The petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- 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

12.09.2024

JITESH

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