



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

130

CRM-M-38229-2024
DECIDED ON: 14.08.2024

KANWAR SINGH

.... PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. S.K.Aggarwal, Advocate
for the petitioner.

Mr. B.S. Virk, Sr. DAG, Haryana

SANDEEP MOUDGIL, J

1. RELIEF SOUGHT

The jurisdiction of this court has been invoked for the fourth time under section 483 BNSS ,2023 for grant of regular bail in FIR no. 26 dated 19.01.2021 under section 302 of the IPC and Section 25 of the Arms Act(Sections 27 & 29(b) of the Arms Act added later on) registered at Police Station Ambala, Ambala City, Haryana. .

2. The contents of the FIR read as under:-

“To Incharge, Police Post No. 2, Ambala City, Sir, It is submitted that I, Apoorav, son of Sanjiv Kumar am resident of House No. 1885/53 B, Ranjit Nagar, Police Station Ambala City. We are two brothers. My younger brother Ayan aged around 19 years, is studying in B.COM 2nd year in Dayal Singh College, Delhi. Due to COVID

Pandemic he is at home since March 2020. Today at around 5.30 PM my brother received a call on his mobile in which two sim numbers 9996777440 and 9992497678 are there from his friend. He went from home saying that he would that after some time and at around 8 PM my father called on the phone of my younger brother Ayan and then we received information that somebody had fired a shot at my brother near Pigri Farm, Ambala City due to some enmity and one Sushil Kumar resident of Mohalla Ranjit Nagar with the help of others had taken him to Civil Hospital Ambala City where doctor after checking my brother declared him dead. On receiving this information, I with other members of my family reached Civil Hospital Ambala City where we saw the dead body of my younger brother Ayan on whose forehead there was bullet injury and there was bullet injury near the ear towards right side as well. Somebody has killed my brother due to some enmity regarding which only those friends of my brothers can tell who had called him by making a call on his phone and whether they had shot him or some other person. It is requested that legal action be taken against the assailants.”

SUBMISSIONS

ON BEHALF OF THE PETITIONER:

Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the case as the FIR was registered against unknown persons and nowhere the name of the petitioner is mentioned in the FIR. Further, the case of the prosecution is solely based on circumstantial evidence where neither any direct evidence nor any eye witness was examined. There is no recovery of articles which falsifies the prosecution story and the disclosure version on the face of it.

ON BEHALF OF RESPONDENT-STATE:

3. Learned State counsel prays for dismissal of the present application wherein specific role has been attributed to the petitioner for snatching the gold chain from the neck of the complainant as a pillion rider which is yet to be

recovered and for that his custodial interrogation is required. He further submits that one more case under section 307 IPC is pending against him.

4. Heard learned counsel for the parties at length.

. **ANALYSIS AND CONCLUSION**

5. Be that as it may, after considering the submissions made herein above and on perusal of the assertions made in the petition as well, this court is of the firm view that custodial interrogation of the petitioner is required particularly in view of the fact that serious overt act has been attributed to the petitioner.

In ***Ram Govind Upadhyay versus Sudarshan Singh, (2002) 3 SCC 598***, it has been observed as under:

“3. Grant of bail though being a discretionary order — but, however, calls for exercise of such a discretion in a judicious manner and not as a matter of course. Order for bail bereft of any cogent reason cannot be sustained. Needless to record, however, that the grant of bail is dependent upon the contextual facts of the matter being dealt with by the court and facts, however, do always vary from case to case. While placement of the accused in the society, though may be considered but that by itself cannot be a guiding factor in the matter of grant of bail and the same should and ought always to be coupled with other circumstances warranting the grant of bail. The nature of the offence is one of the basic considerations for the grant of bail — more heinous is the crime, the greater is the chance of rejection of the bail, though, however, dependent on the factual matrix of the matter.”

6. The Court while considering the bail applications is conscious that personal liberty has to be weighed and balanced with societal/public interest at

large, and ensure that the course of justice is not thwarted by the powerful and influential accused persons.

7. In view of the seriousness of the allegations and the recovery which is yet to affected, the custodial interrogation of the petitioner is certainly required. Therefore, I find no merit in the petition and the same is hereby dismissed.

8. However, it is made clear that the observations in this order are only for the purposes of deciding this bail application and the trial Court is free to adjudicate upon the matter in accordance with law.

14.08.2024
Meenu

(SANDEEP MOUDGIL)
JUDGE

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