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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-39820-2023 (O & M)
Date of decision: 18.03.2024

Sumit Dhulla Petitioner

V/s

State of Haryana ...Respondent

CORAM: HON’BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Nishant Jindal, Advocate,
for the petitioner.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

Ms. Livleen Brar, Advocate, for the complainant.

JASJIT SINGH BEDI, J. (Oral)

The prayer in this second petition under Section 439 Cr.P.C. is for the grant of regular bail to the petitioner in a case FIR No.458 dated 12.09.2019 under Sections 120-B, 148, 302, 323, 506 and 201 IPC read with Section 149 IPC and Sections 25, 54, 49 of the Arms Act, 1959 registered at Police Station Indri, District Karnal, Haryana.

2. The present FIR came to be registered at the instance of Santosh Kumar and reads as under:-

“Respected Sir, copy of the writing is as follows: to the SHO, PS To the SHO Police Station Indri, Subject: Application against Sandeep alias Sunny caste Jaat, son of Ram Kumar, resident of village of Garhi Gujran, 2.Mitta resident of village Garhi Gajran, 3.Sumit Dhulla, resident of village Kalsaura and 3-4 others, for committing murder and inflicting injuries with illegal weapon knife. Sir, it is submitted that I, Santosh Kumar son of Karta Ram, resident of village Muradgarh, Police station Indri, District Karnal and I am a law abiding person. That

today on 12.09.2019, my nephew Shubham son of Harpal son of Amar Singh, resident of village Muradgarh, who is aged about 24-25 years. He came to Indri Court in the Court of Ms. Rupa, Judge, on the date of hearing. At that time Ashwani son of Salinder, resident of village Muradgarh and Vikrant son of Hukam Chand, resident of village Kheri, also came along with him on the date of hearing in the same case. I came to know that accused no.1 Sandeep Alias Sunny, caste Jaat, who was complainant in the said case. He called Shubham, Ashwani and Vikrant outside the main gate of the Court, on the pretext of effecting a compromise. That Sandeep alias Sunny along with his associates, Mitta and Sumit Dhulla and 3-4 others, whose name and addresses are not known, were present and all were armed with knife. That on coming, they gave various knife blows to Shubham. That Ashwani, Vikrant and 3-4 other persons were present at the spot, who rescued him from them and accused fled away from the spot, treating Shubham as dead. This incident took place today morning at about 11.00 AM. That the accused persons fled away from the spot, while giving threats to kill. Shubham was taken to CHC Indri for treatment, where Doctor declared Shubham dead. There were knife injuries on chest, waist and head of Shubham, due to which he died. Hence, it is requested that the accused persons alongwith their associates and weapons, have committed murder of Shubham and have fled away along with their associates and weapons. Therefore, it is requested to your goodself that a murder case may kindly be registered against the accused persons. Sd/- Santosh Kumar."

3. The learned counsel for the petitioner contends that Ashwani (PW-1), Vikrant (PW-4), Santosh-complainant (PW-7), Seema, mother of the deceased (PW-8) and Nikita, wife of the deceased (PW-9) have all been examined and have not supported the prosecution case having turned hostile.

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The petitioner was arrested on 23.09.2019 and no recovery had been effected from him. As he was in custody since the said date but only 12 of the 29 prosecution witnesses had been examined so far, the Trial of the present case was not likely to be concluded anytime soon. Therefore, he was entitled to the concession of bail, moreso, when his co-accused/Sachin Sandhu @ Mitta has been granted the similar concession vide order dated 01.08.2023 (Annexure P-6).

4. The learned counsel for the State, on the other hand, contends that all the accused assaulted the deceased though the knife in question was recovered from Sandeep @ Sunny. Therefore, the nature of the allegations levelled against the petitioner and his co-accused did not entitle him to the grant of bail. He, however, concedes that the petitioner is in custody since 23.09.2019, only 12 of the 29 prosecution witnesses had been examined so far and that all the material witnesses have turned hostile.

5. The learned counsel for the complainant admits that all the material prosecution witnesses have not supported the prosecution case and have turned hostile.

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 during the course of the Trial. Admittedly, all the material prosecution witnesses have been examined and have not supported the prosecution case. Whether the remaining evidence is sufficient to affix liability upon the petitioner and his co-accused shall be adjudicated upon during the course of the Trial. The petitioner is in custody since 23.09.2019 and only 12 of the 29 prosecution witnesses have been examined so far. Hence, the Trial of the present case is not likely to be

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concluded anytime soon. Therefore, the further incarceration of the petitioner is not required, moreso, when a co-accused/Sachin Sandhu @ Mitta has been granted the concession of bail.

8. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, Sumit Dhulla is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

9. The present petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

March 18, 2024
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No