

2024:PHHC:164690



235.

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-41662-2024

Date of decision: 10.12.2024

Nitin Narula @ Appu

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Aman Pal, Advocate, for the petitioner.

Mr. Rahul Mohan, Senior DAG, Haryana.

Mr. Gobind Dhanda, Advocate, for the complainant.

MANJARI NEHRU KAUL, J. (ORAL)

Pursuant to order dated 21.10.2024, status report by way of affidavit dated 09.12.2024 of Preet Pal, HPS, Deputy Superintendent of Police, Special Task Force, Gurugram, has been filed in Court today, which is taken on record.

Vakalatnama filed on behalf of complainant in Court today is also taken on record.

Present petition has been filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 for grant of regular bail to the petitioner in case FIR No.58, dated 31.01.2024 under Sections 302, 34 of IPC and

Section 25 of Arms Act, 1959 (Section 120-B of IPC added lateron), registered at Police Station Sector 8, Faridabad, District Faridabad.

Learned counsel for the petitioner submits that the present case hinges on circumstantial evidence and the FIR, in question, was registered against unknown assailants, who allegedly gun down the deceased. It has been further argued by learned counsel that it was almost three weeks after the alleged murder, the wife of the deceased made a supplementary statement raising suspicion qua the involvement of the petitioner in the murder of her husband. It has been argued by learned counsel that there was neither any witness of last seen to the crime, in question, nor is it the case of the prosecution that the petitioner was one of the unknown assailants who gunned down the deceased, instead the only role attributed to the petitioner is of having financed the purchase of the weapon of offence. Learned counsel has further submitted that investigation qua the petitioner is complete as challan stands presented and even charges stand framed, however, none of the 34 prosecution witnesses have been examined till date. Hence, the possibility of the trial concluding the near future does not arise. A prayer has, therefore, been made, in the given circumstances, to extend the concession of bail, more so, when the petitioner has not even been attributed any specific motive to commit the murder in question.

Per contra, learned counsel for the State assisted by the counsel for the complainant has vehemently opposed the prayer and submissions made by learned counsel opposite. It has been submitted that the petitioner is a member of a notorious gang of criminals and is involved in number of other criminal cases. Learned State counsel has further drawn

the attention of this Court to paragraph 7 of the status report filed today in Court and submitted that on being arrested, the petitioner and co-accused Mangal Singh themselves confessed to their involvement in the crime, in question, and pursuant thereto, got the place of occurrence demarcated.

On a further pointed query, State counsel, on instructions from ASI Deepak, has however not disputed that the petitioner has not been attributed any injury much less fatal on the person of the deceased.

Learned counsel for the complainant has, however, submitted that the petitioner was on interim bail in another criminal case and it was during the said period that he connived with the co-accused and provided them the requisite finances to procure the weapon of offence, which was then used to carry out the crime in question.

Learned counsel for the petitioner submits that no doubt, the petitioner was earlier facing trial in some criminal cases, however, it is a matter of record that in two of those cases, which were registered under Section 302 of IPC, the petitioner had been acquitted, while in the third criminal case registered under the NDPS Act, involving non-commercial quantity of contraband, the petitioner had since been enlarged on bail in the said case.

I have heard learned counsel for the parties and perused the material placed on record.

It would be apposite to reproduce the FIR, in question, which has been annexed as P-1:-

“The brief facts of the case are such that on 30-01-2024, at the incident site Sector 11 Faridabad, the wife of the deceased Surajbhan @ Ballu Pehalwan recorded her statement, the gist of which is as follows, Statement of Rajjodevi w/o Surajbhan

@ Ballu Pehalwan resident of house no. 2 Main Goyla Mode, Village Deenpur, Najabgarh Police Station Chhawla, Delhi Ba, age 40 years, phone number 9818795506. Stated that I am a resident of the above address and do domestic work. My husband has been living in my sister-in-law Buddho Devi's house for the last 6 months. Flat No.503, 5th Floor, Nilgiri Campus, Faridabad. On 30-01-2004, I had come to Faridabad to meet my husband. In the evening, my husband had gone to the gym in the market of Sector-11, Faridabad on a Bullet motor cycle. At around 6:45 PM, I got information through telephone that my husband has been shot by someone in the market of Sector 11. On receiving the information, I reached the spot where my husband was found dead. Unknown persons have shot and killed my husband. Take legal action against my husband's murderers by clues to unknown persons. I wrote my statement to you on the spot, heard it, understood it, Rajo ATTESTED MOHIT PSI P.P. Sector 11.”

A perusal of the FIR reveals, it is a case of blind murder and it was only subsequently, petitioner's name surfaced after a suspicion was raised qua his involvement by the complainant (wife of the deceased). The petitioner has not been attributed any injury, much less fatal, on the person of the deceased. Neither is it the case of the prosecution that the petitioner was present anywhere in the vicinity of the occurrence. The petitioner is alleged to be a conspirator to the crime in question. However, even as per the case of the prosecution, the motive to commit the crime has been attributed to co-accused Nakul and Atul and not to the petitioner.

Petitioner is in custody since 03.03.2024. Challan in the case has been presented and charges have been framed, however, trial will take considerable time to conclude as none of 34 prosecution witnesses have yet been examined.

In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner.

Accordingly, the instant petition is allowed and the petitioner be admitted to bail on his furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

December 10, 2024
sanjeev

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