

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-49785-2022

Date of Decision: February 29, 2024

Deepak

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present: - Mr. Virender Soni, Advocate for the petitioner.

Mr. Sumit Jain, Addl. A.G., Haryana
assisted by S.I. Surinder Singh.

DEEPAK GUPTA, J.(Oral)

By way of this petition filed under Section 439 Cr.P.C., petitioner prays for his release on regular bail in case FIR No.567 dated 12.10.2016, under Sections 302, 34 IPC, besides Section 25 of the Arms Act, 1959 (Section 29 of the Arms Act and 120-B of IPC added later on), registered at Police Station Sampla, District Rohtak. This is the third petition for the purpose. The first petition bearing No.CRM-M-30257-2018 was dismissed vide order dated 29.01.2020 (Annexure P-5); whereas second petition bearing No.CRM-M-23364-2020 was dismissed as withdrawn vide order dated 23.11.2020 (Annexure P-6).

2. Allegations are that on 11.10.2016, Ravinder Singh along with cousin Sanjay @ Lila was coming to their home. At about 8 p.m., as they reached near the house of one Randhir S/o Kehar Singh, petitioner –

Deepak and Shamsher Singh @ Sonu were standing on their motorcycles. Both of them suddenly started firing gun shots from behind at Sanjay @ Lila, who was sitting pillion on the motorcycle. Sanjay @ Lila fell on the ground. Ravinder Singh ran away to save his life and saw that Sanjay @ Lila was also running behind him and that the petitioner and co-accused were continuously firing gun shots upon him. On the alarm raised by Ravinder Singh, various people gathered. Sanjay @ Lila died at the spot. Police was informed. On the statement of Ravinder Singh, FIR was registered.

3. It is contended by learned counsel for the petitioner that petitioner has been falsely implicated; that it was a blind murder; that petitioner was arrested on 21.10.2016; that he is in custody for the last more than 05 years and 09 months; that his earlier petition was dismissed by this Court on 29.01.2020 after observing that 14 witnesses out of 30 witnesses cited by the prosecution had already been examined. However, till date, only 02 more witnesses have been examined, i.e. 16 witnesses out of 30 witnesses have been examined and thus the trial may take long time to conclude, so he be allowed bail.

4. Learned State counsel concedes the fact that out of 30 prosecution witnesses, 16 have been examined so far. It is also informed that complainant – Ravinder Singh has already been examined. However, learned State counsel submits that delay in concluding the evidence has taken place because two of the co-accused, namely, Shamsher @ Sonu

and Dharmbir had absconded. Their bail was cancelled on 24.05.2022. It is further stated that co-accused are lodged in different jails and due to non-appearance of co-accused Shamsher @ Sonu, statements of other witnesses could not be recorded. It is stated further that Shamsher @ Sonu has been declared as a proclaimed offender on 05.01.2024; whereas another co-accused Dharambir S/o Sri Bhagwan is presently confined in District Jail, Bhondsi. He has been produced in the Court on 05.01.2024. Learned State counsel submits further that all these circumstances indicate that there was no fault on the part of the prosecution in concluding the evidence.

5. Heard.

6. No doubt that petitioner is specifically named in the FIR to be one of the assailants. At the same time, the Court cannot ignore the custody certificate revealing the long incarceration of the petitioner. His custody period is now 05 years, 09 months and 29 days in the present case. Only 16 prosecution witnesses out of 30 witnesses have been examined so far and thus the trial is likely to take long time to conclude. The material witness Ravinder Singh, i.e. complainant and eye witness of the case has already been examined. No purpose shall be served by keeping the petitioner detained.

7. Learned State counsel could not refute the contention of learned counsel for the petitioner that when the petitioner was on interim bail during Corona period, he did not misuse the concession of bail.

8. Having regard to all the aforesaid facts and circumstances, but without commenting anything on the merits of the case, petitioner is admitted to bail. He is ordered to be released on regular bail on his furnishing bail bonds and surety bonds to the satisfaction of learned Trial Court/Duty Magistrate concerned, on usual terms and conditions.

Allowed.

February 29, 2024

Sarita

(DEEPAK GUPTA)

JUDGE

Whether reasoned/speaking: Yes/No

Whether reportable: Yes/No