



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

232

CRM-M-46956-2024
Date of decision: September 25th, 2024

Dharmender
.....Petitioner

Versus

State of Haryana
.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Sangram Singh Saron
and Mr. Abhishek Sindhvani, Advocates
for the petitioner.

Mr. Yuvraj Shandilya, Assistant Advocate General,
Haryana.

Mr. P.S. Ahluwalia and Mr. Gaurav Jain, Advocates
for the complainant.

MANJARI NEHRU KAUL, J.

This is a second petition filed by the petitioner seeking the concession of regular bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), in case FIR No.592 dated 23.11.2021 under Sections 302, 307, 34, 120-B, 201, 212 of the Indian Penal Code, 1860, and Sections 25 and 27 of the Arms Act, registered at Police Station Jind City.

2. The learned counsel for the petitioner has argued that the petitioner has been in custody since 02.12.2021, and despite the completion of the investigation and the filing of the charge-sheet, the trial has made minimal progress. Out of 77 prosecution witnesses, only 18 have been examined to date, rendering the petitioner's continued incarceration unjustified. Furthermore, it has been highlighted that even as per the case of the prosecution, the petitioner was not one of the

***CRM-M-46956-2024******-2-***

assailants, who fatally shot the deceased or fired at the complainant on the day of the alleged incident.

3. It has also been argued that the petitioner's involvement in the present case, is based on mere suspicion due to his involvement in a previous criminal case, where he stands accused of attacking the complainant's father. Pertinently, the prosecution has not alleged that the petitioner was present at the scene of crime when the fatal shots were fired, nor has it been alleged, that he was in proximity when the complainant was injured. In fact, the petitioner had voluntarily surrendered to the police on 01.12.2021.

4. The petitioner's counsel has further contended that there is no allegation by the prosecution that the petitioner provided assistance or shelter to the attackers after the crime. The prosecution's attempt to link the petitioner to the crime is based on the recovery of a vehicle purportedly used in the attack. However, this vehicle was found abandoned on a vacant plot, and the petitioner neither owned the vehicle nor had any connection to the plot from where it was recovered. Additionally, the complainant had initially raised suspicions regarding one Gaurav's involvement in the crime, yet the investigation cleared Gaurav of any wrongdoing, raising concerns about the selective approach taken by the prosecution.

5. The learned counsel for the petitioner has also pointed out the inconsistencies in the prosecution's case, particularly the contradictory testimony of prosecution witness PW1, Vinod Bansal, which significantly weakens the prosecution's narrative. Moreover it

***CRM-M-46956-2024******-3-***

has been asserted that the, CCTV footage from the scene of crime does not show the petitioner's presence, further lending credence to his false implication.

6. On the other hand, the counsel for the State, assisted by the counsel for the complainant had strongly opposed the learned counsel for the petitioner's prayer and submissions. They have contended that the petitioner was the mastermind behind the entire crime. It has been argued that the petitioner has a long history of involvement in criminal activities, with 17 criminal cases filed against him, including under the Terrorist and Disruptive Activities (Prevention) Act (TADA), and has been convicted in three cases involving heinous crimes. Although he has been acquitted in some cases, the learned counsel have emphasized that in some of the other cases involving grave charges the petitioner is facing trial.

7. The learned counsel for the State has also submitted that the attack on the complainant was part of a series of assaults orchestrated by the petitioner against the complainant and his family. It has been pointed out that the petitioner had previously attacked the complainant's father, for which a case under Section 307 of the IPC was registered against him; the petitioner was out on bail in that case when the present crime was carried out. Moreover, the petitioner has since been convicted in the aforesaid case under Section 307 of the IPC. It has also been urged that his involvement in the instant case and that too while out on bail, was a factor which weighed with this Court while declining his prayer for suspension of sentence in the aforementioned

***CRM-M-46956-2024******-4-***

case under Section 307 of the IPC.

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

9. During the recording of his statement while recording the FIR in question, the complainant expressed his suspicion that the attack was orchestrated by the petitioner in connivance with several co-accused Jai, including Baljeet, Roshan Pokhari, Sanjay alias Barkat, Jagdish, and the petitioner's associate, Vijayant. The complainant further alleged that the assailants had rented weapons as part of a larger conspiracy to eliminate competition in the contracting business.

10. The petitioner has been specifically accused of being a principal conspirator behind the attack. The alleged motive for the attack stems from the petitioner's and his associates' role as *benami* shareholders of one of their competitors, who allegedly sought to eliminate competition by instilling fear and terror among rivals. Notably, a similar attack had been carried out against the complainant's father in the year 2016, in which the petitioner and his accomplices were sent up to face trial and have since been convicted.

11. *Prima facie* there are, therefore, very serious and specific allegations against the petitioner. No doubt, he has been in custody for a considerable period of time, however, the mode and manner in which the crime in question was executed, and keeping in view the history of past enmity between the parties, in case the petitioner is enlarged on bail at this stage, there could be a likelihood of the petitioner, yet again, being involved in a criminal case or even attempting to abscond during



CRM-M-46956-2024

-5-

the pendency of the instant case, more so when it has been submitted by the State, on instructions, that the prosecution witnesses have supported the case of the prosecution.

12. In the facts and circumstances as enumerated hereinabove, this Court is not inclined to extend the concession of bail to the petitioner.

13. The instant petition, therefore, stands dismissed.

14. 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.

15. The trial Court shall make earnest efforts to expedite and conclude the trial at the earliest. The prosecution as well as the defence shall also cooperate with the trial Court by ensuring that no unnecessary adjournments are sought during trial.

September 25th, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No