

218 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-51752-2023

Date of Decision: 29.02.2024

Aman alias Monu

...Petitioner

vs.

State of Haryana

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat**Present :** Mr. Shobit Phutela, Advocate, for the petitioner.

Ms. Sheenu Sura, DAG, Haryana.

Mr. Anil Ghanghas, Advocate, for the complainant.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the instant petition under Section 439 of the Cr.P.C. with a prayer to grant regular bail in case FIR No.488 dated 21.08.2017 registered under Sections 302, 120-B, 148, 149, 412 of IPC and Section 25 of Arms Act, at Police Station Meham, District Rohtak.

3. The FIR in the present case was got registered on the basis of the statement made by Ravinder son of Balak Ram and the same has been reproduced as below:-

“ To, The Station House Officer, Police Station Meham, Rohtak/ Sir, I, Ravinder S/o Balak Ram R/o Bhran and now residing with my elder aunt and uncle in Meham. My elder uncle Suhi Ram and my aunt Virmati are running a school named 'Sahi Ram Public School, which is situated at Bharan Road, Meham. Today on 21 08.2017 in the morning at 7:30 AM, my uncle was going towards school on his scooty and I made my aunt sit on my, scooty to drop her at school. My uncle Sahi Ram son of Shankar Lal was going ahead on his scooty. When I reached near the gate

of Anaj Mandi, one Swift Car came from back side and hit it with the scooty of my uncle Sahi Ram. Consequently, my uncle fell down on a side of road. Three persons alighted from the car. Their names are Aman S/O Dharmender, Sanjit S/O Dharmender Residents of Bharan and Kamal is a relative of Aman. All the three persons were having weapons in their hands All the persons opened fire on my uncle Sahi Ram While he had fallen. We saw this occurrence and turned towards Anaj Mandi. While turning my scooty, I saw that one Beat Car No. HR 15 C9568, which was being driven by Kuldeep son of Hari Chand and Balraj son of Hari Chand & Sukhbir son of Ratia were sitting in the car. They are all residents of Bharan. They alighted from the car and started roaming around my elder uncle. Then they sat in their car and went away from the spot raising their respective weapons. Aman, Sanjit and Kamal have fired at my elder uncle and due to the same, he died on the spot. Legal action may kindly be taken against all these persons. Sd. Ravinder, S/o Balak Ram Jat, Village Bharan. Mb. No. 9813802619.”

3. Learned counsel for the petitioner contends that the petitioner was arrested in the present case on 06.09.2017 and is in custody for the last more than 6 years and 2 months, during trial. Learned counsel further contends that in the present case, every attempt has been made by the prosecution to delay the trial, so as to ensure the longer incarceration of the present petitioner and such a delay in conducting the trial can never be attributed to the present petitioner as he was in custody. He further contends that even though, specific allegations have been levelled against him in the present FIR, but keeping in view his custody for such a long period, he is entitled to be enlarged on bail. Learned counsel for the petitioner has further relied upon the judgments passed by the

Hon'ble Supreme Court in the matter of “**Ranjan Dwivedi Vs. CBI, through**

the Director General, 2012(8) SCC 495; 2012 (4) RCR (Criminal) 880” and “Gudikanti Narasimhulu and others v. Public Prosecutor”, AIR 1978 SC 429.

4. On the other hand, learned State counsel assisted by learned counsel for the complainant have vehemently opposed the submissions made by learned counsel for the petitioner on the ground that the petitioner has also been convicted in another case arising out of the FIR No.94/2017 and is in custody in the said case as well. Still further, in case the petitioner is ordered to be released on bail, he might threaten the witnesses of the present case and the petition is liable to be dismissed by this Court.

5. I have heard the learned counsel for the parties and perused the record.

6. In the present case, the petitioner was arrested in the present case on 06.09.2017 and is in custody since then. No doubt, the allegations levelled by the complainant in the present FIR indicate the seriousness of the offence and specific allegations have been levelled against the present petitioner, however, the petitioner cannot be detained in custody as under trial prisoner for an indefinite period. In fact, any detention for a longer period, without completion of trial by the trial Court, is violative of Article 21 of the Constitution of India.

7. Thus, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate, concerned, subject to the following conditions:-

- (i) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him to disclose such facts to the Court or to any other authority.
- (ii) The petitioner shall remain present before the Court on the dates fixed for hearing of the case.
- (iii) The petitioner shall not absent himself from the Court proceedings except on the prior permission of the Court concerned.
- (iv) The petitioner shall surrender his passport, if any, (if already not surrendered), and in case he is not holder of the same, he shall swear an affidavit to that effect.
- (v) The petitioner shall also file his affidavit before the concerned Court, mentioning his ordinary place of residence and number of mobile phone, which shall be used by him during the pendency of the trial. In case of change of place of residence/mobile number, he shall share the details with the concerned Court/learned Trial Court.
- (vi) In case, the petitioner involves in any other criminal activity, during the pendency of the trial, it shall be viewed seriously.
- (vii) The concerned Court may insist on two heavy local sureties and may also impose any other condition, in accordance with law, while accepting the bails bonds and surety bonds of the petitioner.
- (viii) The petitioner shall report every 1st Monday in English calander month before the concerned SHO till the conclusion of the trial and SHO shall mark his presence by making an entry in the rojnamcha. In case, he does not report on every 1st Monday before the concerned SHO, it shall be viewed seriously and the concession granted to him shall be liable to be cancelled and the State of Haryana shall be at liberty to move an appropriate application in this regard.

8. It is apparent from the record of the case that the trial has been unreasonably delayed in the present case. The trial Court is directed to conclude the trial, expeditiously, preferably within a period of 06 months from today.

29.02.2024.
hemlata

(N.S.SHEKHAWAT)
JUDGE

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