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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-52175-2023 (O & M)

Date of decision: 11.01.2024

Rahul

.... Petitioner

V/s

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Dheeraj Kumar Sharmal, Advocate, for the petitioner.

Mr. Ravish Kaushik, Addl.AG, Haryana.

JASJIT SINGH BEDI, J. (Oral)

The prayer in this petition under Section 439 Cr.P.C. is for the grant of the regular bail to the petitioner in case FIR No.610 dated 10.10.2020 under Sections 302, 328, 34 IPC registered at Police Station Baldev Nagar, District Ambala.

2. The present FIR came to be registered on the complaint of Dheeraj Kumar which reads as under:-

“Sir, copy of the complaint is as under, Statement of Dheeraj Kumar son of Shri Ram Lal, resident of House no.M.N. 113/32 Kabir Nagar, Baldev Nagar, Ambala City, age 56 years MOB. NO. 9812250134, Education 8th standard, Stated that I am a resident of the above given name and address. And I work as a motor mechanic in HAP Pratham Vahini Ambala. I have three boys and one girl. My youngest boy named Sajan @ Mowgli was around 21 years old. He used to supply milk from the pick-up vehicle in the Vita Milk plant. Yesterday on 09.10.2020 my son Sajan @ Mowgli was called by Rahul S/O Tinga and Manish son Dasa resident Kabir Nagar from my house at around 11.00 AM. He did not come to the house overnight. Today on 10.10.2020, at around 5 in the morning, Rahul and Manish left my son Sajan @ Mowgli on the Main

Road, Kabir Nagar on the road leading to our house and Manish came to our house and told that your boy is lying unconscious on the side of Sajan street. Me and my son Ankit when reached to bring Sajan @ Mowgli, my son Sajan was lying on the ground in a state of unconsciousness. After giving information to our house, Manish ran away from there without giving any reason. We brought our son Saajan @ Mowgli home in a state of unconsciousness. And after some time my sons, seeing Sajan's deteriorating condition, took him to Civil Hospital, Ambala city, where the doctor checked Sajan @ Mowgli and declared him dead. I am quite sure that my son Sajan has died due to feeding of some poisonous substance to my son Sajan by Rahul and Manish above due to some old enmity with my son Sajan. Dead body of my son is lying in Mortuary (Dead House), Civil Hospital, Ambala City. Appropriate legal action should be taken against the accused Manish son Dasa and Rahul son Tinga, residents of Kabir Nagar, Ambala City. I wrote the statement in the presence of my son Ankit and other family members. Read it and found to be correct. SD- Dheeraj Kumar 9812250134 10.10.2020 ATTESTED SURESH KUMAR SI PS B/NAGAR DT 10.10.2020”.

3. After the registration of the FIR, both the accused were arrested on 10.10.2020. The complainant identified the said accused as the persons who had left his son in an unconscious condition. The accused confessed that they had injected 08/09 intoxicating injections into the person of the deceased and thereafter, they had left him near his house. The accused also got recovered the injection syringe from the parking of the Railway Station, Amabala Cantt. and 05 injections out of which 04 injections were in a broken condition.

4. The learned counsel for the petitioner contends that the

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the complainant is *hear say* at best and therefore, inadmissible and an identically situated co-accused, namely, Manish had been granted the concession of bail by this Court vide order dated 10.05.2022 (Annexure P-3). As the petitioner was a first-time offender, in custody since 10.10.2020 and that only 07 out of the 18 prosecution witnesses had been examined so far, the Trial of the present case was not likely to be concluded anytime soon and therefore, he was entitled to the concession of bail.

5. The learned counsel for the State, on the other hand, has filed a reply dated 10.01.2024. The same is taken on record. While referring to the said reply, he contends that the allegations against the petitioner and his co-accused were grave. Recoveries of the injections, syringe, etc. had been effected from the petitioner and his co-accused. Therefore, the petitioner was not entitled to the concession of bail. He, however, concedes that the petitioner was a first-time offender, in custody since 10.10.2020, only 07 of the 18 prosecution witnesses had been examined so far and that a co-accused/Manish had been granted the concession of bail.

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 upon during the course of the Trial. The petitioner is a first-time offender, in custody since 10.10.2020, and only 07 out of the 18 prosecution witnesses have been examined so far. Therefore, the Trial of the present case was not likely to be concluded anytime soon. Further, co-accused, namely Mansih has been granted the similar concession. In this situation, the further incarceration of the petitioner is not required.

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8. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Rahul is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.
9. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other case/crime other than the case(s) referred to in this order.
10. If any attempt whatsoever is made by the petitioner and/or his family members/friends to contact/threaten/intimidate any of the witnesses of the present occurrence, the State/complainant shall be at liberty to move an application for cancellation of bail granted vide this order.
11. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.50,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from Trial without sufficient cause.
12. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

January 11, 2024
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No