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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARHCRM-M-54644-2023(O&M)
Date of Decision: 19.09.2024

Arun @ Arjun Kumar

...Petitioner

vs.

State of Haryana

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat**Present :** Dr. Anmol Rattan Sidhu, Senior Advocate with
Mr. Kanishk Swaroop, Advocate
for the petitioner.

Mr. Rajinder Kumar Banku, Deputy Advocate General, Haryana.

Mr. Abhinav Gupta, 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.333 dated 17.10.2022 registered under Sections 302, 323, 34 of IPC, Section 201 of IPC added later on, at Police Station Khol Rewari, District Rewari.

2. The FIR in the present case was registered on the basis of the statement made by Narender Pal son of Dharampal and the same has been reproduced below:-

*“To, the Incharge Police Post Kund (Rewari) Khol.
Sir, I Narender Pal S/o Dharampal am permanent resident of
Manethi (Kund Barrier) District Rewari. I and my father and Sonu
S/o Ajit Singh R/o Manethi after having meals, had come out of
house for a walk, time was around 10.00 at Night. On dated
16.10.2022 in front of the shop Kund Barrirel near to our house*



Jagdish alias Jaggi R/o Mandann along with his 4 accomplices in front of the house were drinking liquor on the Main Road and were hurling filthy abuses loudly, when my father said to them that here over the shop my family is living. Therefore, you may go from here, then they started hurling filthy abuse to my father and to us of mother - sister then my father scolded them and said do not hurl abuses, upon saying so Jagdish alias Jaggi came in rage and started assaulting my father, then me and Sonu rescued my father from them and while making my father to board Motorcycle of Sonu bearing number HR36A-6564 and was going to complain them at Police Post Kund. After little distance from home we had just reached near Bikaneri Restaurant that sound came from behind that they are going. In the meantime, itself Jagdish alias Jaggi and his accomplices raised challenge with an intention to kill intentionally collided our motorcycle with their Car, as a result of collision my father fell on the road. And Sonu fell on the side. Then my father got up immediately then Jaggi and his accomplices said that he has survived and then Jaggi backed up his Car and again collided it. Later on upon seeing number of the Car was RJ-14QC-6055, while going and his accomplices said that, today he has survived if we get chance in future then we shall kill him, then me and my Uncle Vijaypal and brother Jaipal made arrangement of vehicle and brought my father for treatment at Trauma Centre Rewari, where after checking the Doctors declared him dead and my brother Sonu was admitted for treatment at Virat Hospital Rewari. Above named persons jagdish alias Jaggi and his accomplices are criminal type of persons. Above named persons with deliberate intention of killing my father and brother Sonu have collided their above-mentioned vehicle, as a result of which death of my father has taken place in this incidence, legal action may be initiated against above named persons. Today I have submitted complaint to your goodself. SD/-Narender Pal.”



3. Learned Senior counsel has vehemently argued that the petitioner is neither named in the FIR nor any specific role has been attributed to him in the FIR. He further contends that in fact, the petitioner has been nominated as an accused on the basis of the disclosure statement suffered by his co-accused, which may not be admissible against him. Learned counsel further contends that in the present case, even as per the case set up by the prosecution, the petitioner along with Jagdish @ Jaggi, main accused had gone to the house of Munish on a motorcycle to get the keys of the car, which was used by them in the commission of crime. However, the car, which had hit the motorcycle of the deceased, was driven by Jagdish, main accused and the petitioner has been wrongly shown to be an occupant of the car only. He further contends that the petitioner was arrested in the present case on 26.12.2022 and is in custody for the last more than 01 year and 08 months. Learned counsel further contends that 03 witnesses, out of total 22 witnesses have been examined so far by the trial Court and the conclusion of the trial may take quite a long time. Out of 3 witnesses, the complainant and the injured witness have already been examined by the prosecution and there are no chances of tampering with the prosecution evidence any more.

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 and his co-accused Jagdish had brutally killed Dharampal. Apart from that, the petitioner had instigated his co-accused Jagdish to kill Dharampal and the petitioner had played an active role in the commission of crime. He further contends that the



petitioner had even arranged a car, which was used in the crime in the present case. Apart from that, the petitioner is facing four more criminal cases and he is a habitual offender.

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

6. In the present case, the car, which had allegedly hit the motorcycle driven by Dharampal (deceased), was driven by Jagdish, co-accused, who is in custody. However, the case of the petitioner is on different footing and he was shown to be present in the car along with Jagdish, main accused. No doubt, the allegations levelled against the petitioner are serious in nature, but he cannot be allowed to languish in jail for an indefinite period as an under-trial prisoner. The petitioner has already suffered incarceration for the last more than 01 year and 08 months and his further custody in the jail may not be justified as an under-trial.

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 to 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 to 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. Pending application stands also disposed of.

(N.S.SHEKHAWAT)
JUDGE

19.09.2024.
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No