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CRM-M-52122-2024
Date of decision : 25.10.2024

....Petitioner

....Respondent

Present : Mr. Jagdeep Singh Rana, Advocate with
Ms. Mehak Sawhney, Advocate
for the petitioner.

PANKAJ JAIN, J. (ORAL)

2. Custody Certificate of the petitioner has been filed today in Court. The same is taken on record.

3. FIR was registered on the statement of Amit Gulia, brother-in-law of deceased Shubham Nehra alleging as under :

“xxx Stated that I am the resident of above said address and serving as sepoy at police station Mudka in Delhi Police. About 11

2024:PHHC:140359



years ago, I was married with Sonam D/o Ranbir Singh, r/o House no. 45/2, Devi Lal Colony, Gurugram. My wife Sonam is elder and my sister in law Annu is younger and she is also married. I have one brother in law, whose name is Subham Nehra. My father-in-law is ill for the last 8-10 years and used to stay at home. My mother in law Krishan has opened a grocery shop at home. My brother in law Subham used to assist in the shop and used to stay at home who has passed 10th class. On 25.03.2021, his brother n laws had gone out of his at about 10.00/10.30 p.m. on his scooty and today he has been informed on phone tht his brother n law has been shot dead by some unknown persons and they have thrown his body near Barfiwala on the left side of the road coming from Chandu Budehera to Gurugram. On receiving the information he has come to the spot and saw the dead of his brother in law which has wound on the right side of his head and a lot of blood was coming out. His brother in law also has bullet wound near his naval. My brother in law has been killed by some unknown persons by firing shot and has put the dead body near the road. Legal action be taken against unknown persons. Statement has been got recorded, read over and admitted to be correct. Sd/ Amit Gulia xxx”

4. Role of the petitioner has been mentioned in the status report filed by way of affidavit of Assistant Commissioner of Police, West, Gurugram in CRM-M No.23216 of 2023 and the same reads as under :

“13. That the role of the petitioner Akhil @ Akki in the present case is that while committing the present crime, he had fired the gunshot from his countrymade pistol to deceased Shubham. The petitioner Akhil @ Akki got recovered two countrymade pistols (desi katta), one bullet, one empty cartridge and one Apple I-phone which were taken into police possession. He further got recovered the clothes and shoes worn by him at the time of occurrence.”



5. Counsel for the petitioner submits that the alleged recovered pistol/cartridges from the petitioner have not matched the bullet detected from the body of the deceased and the same has matched the pistol recovered from Sunny @ Kachra. So far as the prosecution witnesses are concerned, the same have not supported the story of the prosecution. The petitioner is behind bars for more than 3 years, 6 months and 19 days. In trial, material witnesses already stand examined. Thus, the petitioner shall be entitled for grant of bail.

6. Per contra, State Counsel refers to the criminal antecedents of the petitioner and submits that the petitioner is facing multiple FIRs and does not deserve grant of regular bail. However, he is not in position to dispute the fact that so far as the ballistic report is concerned, the same does not indict the present petitioner as the stand of the State has already come on record in the earlier status report.

7. I have heard counsel for the parties and have gone through records of the case.

8. Without commenting on the merits of the case, keeping in view the incarceration suffered by the petitioner and the fact that the material witnesses stand examined and scientific evidence *prima facie* does not incriminate the petitioner, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.



9. Needless to say that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

October 25, 2024			(Pankaj Jain)
Dpr			Judge
	Whether speaking/reasoned	:	Yes/No
	Whether reportable	:	Yes/No