

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-58480-2023

Date of Decision:-21.03.2024

Lalit Rathee.

.....Petitioner.

Vs.

State of Haryana.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Rajat Mor, Advocate for the Petitioner.

Mr. Kanwar Sanjiv Kumar, AAG Haryana.

JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.6 dated 23.01.2023 under Sections 148, 149, 364, 379-B, 302, 201 IPC and Sections 25, 27 of Arms Act, 1959 registered at Police Station Line Par Bahadurgarh, District Jhajjar, Haryana.

2. The present FIR came to be registered at the instance of Devi Lal which reads as under:-

“ To the SHO P.S. Line Par (Bahadurgarh). It is requested that I, Devi Lal S/o Om Parkash, is resident of Dhangad, District Fatehabad. I am working in companies at Bahadurgarh from about last 3 years. Now from about 4-5 months, I am working as Supervisor in H.I.S. Company M.I.E. Bahadurgarh. Owner of my company is Sunny S/o Laxmikant, R/o Chhotu Ram Nagar, Line Par Bahadurgarh and Devender Chhikara S/o Ranbir, R/o Village

Kanoda, Bahadurgarh. Suraj S/o Sambhupal, R/o Roshanpana Pur, Police Station Roshanpana Pur, District Muzzafarnagar, Bihar at present tenant Chhotu Ram Nagar, Bahadurgarh was also doing job of patrolling on bike in our company. On the night of 22-23.01.2023, Suraj and his companion Dheeraj R/o Chhotu Ram Nagar, Line Par, Bahadurgarh were checking on bike in the area of H.I.E., then 8-9 unknown boys stopped the Suraj and Dheeraj and started altercation took place with Suraj and Dheeraj, then Suraj informed me about this. I alongwith my owner Sunny reached in the area of M.I.E. where Suraj and Dheeraj were present and upon seeing us, unknown boys tried to fled away from the spot, then me, Dheeraj and Sunny caught hold one boy out of them and left him after threatening him and while leaving we also gave 1-2 slaps to him. Today on 23.01.2023, me and Suraj at about 10:15 am went to the house of Suraj in company's car bearing No.DL2CRH5030 Maruti Wagon-R for taking meals. After taking meals, me and Suraj we were returning to our office at H.I.E.-B Bahadurgarh in the above said car. I was driving the car and Suraj was sitting with me on the conductor seat. At about 10:45 am, me and Suraj when reached in front of confectionary shop of Karambir Rathee at Chhotu Ram Nagar, Line Par, Bahadurgarh, then we saw that some persons were cleaning the sewer, due to which road was closed. I stopped my car and in the meantime, 6-7 unknown boys who muffled their faces with the cloth, came near to our car and surrounded our car. Out of them one boy came towards my side and broke the glass pane of my side window with the pistol carried by him in his hand and from other side, one unknown boys fired a gun shot on the head of my friend Suraj with the weapon carried by him in his hand. My friend in a

pool of blood fell down in the car. Thereafter, the boy standing my side, got me down from the car forcefully and put me on the back seat of car with the help of his other friends and sat one boy armed with pistol alongwith me on the back seat and he started driving the car and asked to his other 3 companions that you should also follow on your respective vehicles. The boy while driving proceeds from Chhotu Ram Nagar towards Nijampur Road and the boy sat alongwith me was in intoxicated condition and when speed breaker came in the way, then finding a chance jumped out from the car due to less speed and ran towards the fields. I saw from the fields that the unknown boys left the car alongwith dead body of my companion Suraj lying in the car, near the rubbish dump and fled away. After sometime, I reached near to my car, then I saw that my friend Suraj expired due to shot injury. I have suspicion that on the night of 22.01.2023, the unknown boys had quarreled with us, those boys due to that grudge in collusion with each other, murdered my friend Suraj with gunshot and for destroying the dead body left at some unclaimed place and those boys also forcefully put me in the car and snatched my Mobile Phone No.8053101284 (Samsung Galaxy A51). Now I in my full consciousness gave my complaint to you. Strict legal action be taken against those unknown boys. Sd/- Devi Lal."

3. The learned counsel for the petitioner contends that the eye witness/complainant Devi Lal has been examined as PW-1, Sunny as PW-2, Shambu Pal as PW-4 and Devinder Chikara as PW-5. None of them have supported the prosecution case. The CCTV footage has been put to witness Devi Lal PW-1 and he has not identified any accused even from the said footage. As the petitioner was in custody since 30.03.2023 but only 05 of the 37 Pws 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 more so when in 02 of the 03 cases pending against him, he had been granted the concession of bail.

4. The Counsel for the State on the other hand has filed a reply dated 07.03.2024 by way of affidavit of Mr. Akhil Kumar, HPS, Deputy Superintendent of Police, Bahadurgarh, District Jhajjar in court today, which is taken on record. While referring to the said reply he contends that the petitioner was clearly visible at the time of the incident near the rear window of the car of the deceased Suraj in the CCTV footage. Therefore, he was not entitled to the concession of bail. He however concedes that all the material prosecution witnesses including the eye witness Devi Lal PW-1 have been examined and have not supported the prosecution case in as much as the petitioner has not been identified as one of the assailants. He also concedes that the petitioner is in custody since 30.03.2023, only 05 of the 37 Pws had been had been examined so far and that in 02 of 03 cases pending against him, he had been granted the concession of bail..

5. I have heard the learned counsel for the parties.

6. The veracity of the prosecution case against the petitioner and his co-accused shall be adjudicated upon during the course of the Trial. Admittedly, all the material prosecution witnesses have turned hostile. Whether the remaining evidence on record is sufficient to establish the guilt of the petitioner and his co-accused shall be adjudicated upon during the course of the Trial. As the petitioner is in custody since 30.03.2023 but only 05 of the 27 Pws had been examined so far, the Trial of the present case is not likely to be concluded anytime soon. In this situation the further incarceration of the petitioner is not required, moreso when in the other cases registered against the petitioner he had been granted the concession of

bail.

9. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-**Lalit Rathee** son of Sh. Mehtab 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.

10. 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 crime other than the cases mentioned in this order.

11. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.2,00,000/- 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

March 21, 2024
Vinay

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