



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.59551 of 2024
Date of decision: 3rd December, 2024

Sandeep

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Ramesh Hooda, Advocate for the petitioner.
Mr. Rahul Mohan, Sr. Dy. Advocate General, Haryana
for the respondent/State.

MANJARI NEHRU KAUL, J.

1. The petitioner is seeking the concession of bail under Section 483 BNSS in case FIR No.281 dated 08.08.2023 under Sections 120-B, 195-A, 302, 201 & 34 of the IPC and sections 25 & 27 of the Arms Act, 1959 registered at Police Station Rohtak Sadar, District Rohtak.

2. Learned counsel for the petitioner has submitted that the petitioner has been in custody since 30.09.2023 in a case of false implication. It is contended that although the petitioner has been named in the FIR, his role in the murder of Mohit (hereinafter referred to as, 'the deceased') is not supported by any cogent evidence or material. No telephonic conversations between the petitioner and the co-accused, either immediately before or after the crime, have been brought on

record, and there is no clear-cut motive attributed to the petitioner for conspiring with the co-accused or even firing the fatal shots on the deceased.

3. It has been further argued that while the petitioner originally hails from the same village as the co-accused, he has been residing in village Gorad, district Sonapat for several years, thereby eliminating any occasion for conspiracy with the co-accused. Learned counsel has further argued that allegedly the petitioner was present at the scene of crime, but his presence alone cannot justify his participation in the crime in question in the absence of any substantive evidence.

4. Learned counsel has also submitted that the investigation is complete, and the challan was presented on 02.11.2023. Despite that, none of the 43 prosecution witnesses have been examined to date, indicating that the trial is unlikely to conclude in the near future. Additionally, it has been pointed out that two co-accused, Sunny and Rinku, have already been granted bail, and the petitioner being a family man, with a wife and four children, also deserves similar relief.

5. Per contra, learned State counsel has vehemently opposed the prayer and submissions made by the counsel opposite by drawing the attention of this Court to the allegations levelled in the FIR in question, which has been annexed as Annexure P-1 and stands reproduced hereunder:

*“To, the SHO Sahib, Police Station Sadar Rohtak,
Sir, the request is that I Kuldeep son of Mahendra resident
of village Chamariya Pana Thoi, district Rohtak and I drive*

*my own cruiser and we are two brothers. All three sisters are married. That today my nephew Mohit son of Bhup Singh, village Chamariya aged about 26 Years, who has been working in the army for about 3 years. Mohit, who had come about 10 days ago to spend a month's leave, was took his nephew Jashan on his motorcycle No.HR14-P-3673 Royal Enfield Color Black from his home to SM School Chamariya today at around 8:15 AM. After leaving his nephew Jashan, he was returning home, when reached in front of the small gate of the Government School, **Sandeep** son of Ram Niwas village Chamariya, now residing at Gaurad District Sonipat alongwith his two other companions came on a black motorcycle and killed my nephew Mohit by shooting him on his head and killed him. He alongwith his associates fled from the spot alongwith the motorcycle. **Sandeep** had earlier also killed my brother Bhup Singh son of Mahendra Singh and my uncle's son Manjeet son of Satbir. Due to this rivalry, today he shoot dead my nephew and I am also in danger from him. Strictest action should be taken against **Sandeep** son of Ram Niwas and his associates and I have got written this compliant after narrating from Devendra son of Mahendra village Chamariyan and presented it to you.”*

6. It has been argued that a perusal of the allegations levelled in the FIR clearly reveals that the case is based on an eye-witness account, and the petitioner was named at the very first instance; the allegations indicate that the petitioner, along with the co-accused, arrived at the scene on a motorcycle driven by none other than the petitioner, in broad day light. It has been further submitted that after the deceased had been fatally shot on his head, the petitioner, who was

riding the motorcycle along with the co-accused, fled away from the scene of crime.

7. Learned State counsel has still further submitted that the petitioner has a history of enmity with the complainant's family; previously also, the petitioner had murdered the brother and a cousin brother of the complainant, and the present crime was a continuation of that strained relationship. Learned State counsel has still further submitted, on instructions from ASI Jitender, that CCTV footage retrieved from the place of occurrence also supports the involvement of the petitioner in the crime in question, as he is clearly visible in the recording. Learned State counsel, on instructions, has further argued that although the fatal injuries were attributed to the other co-accused, who were pillion riding behind the petitioner, the petitioner can safely be deemed to be an active participant in the occurrence in question as he had driven the motorcycle carrying the assailants to and from the scene of the crime.

8. Learned State counsel has also highlighted that the petitioner is a habitual offender involved in 13 criminal cases, including murder, robbery and dacoity. Furthermore, it has been argued that the petitioner committed the present crime while on bail in the other cases which are registered against him. Learned State counsel has expressed apprehension that granting bail at this stage would result in the petitioner absconding, intimidating witnesses, or committing some more heinous crimes.

9. As for the two co-accused who were earlier granted bail, learned State counsel has contended, on instructions, that the petitioner cannot claim parity with them as they were not named in the FIR in question nor were they attributed any motive to commit the crime; their involvement was based on disclosure statements and the only role attributed to them was that the weapon of offence had been procured through them.

10. I have heard learned counsel for the parties and perused the relevant material on record.

11. Prima facie, there are serious and specific allegations against the petitioner in the instant case which is based on eye-witness account. The petitioner is alleged to have actively participated in the murder in question, driving the motorcycle to and from the scene of crime with both the co-accused, who fatally fired towards the deceased, pillion riding behind him. The past history of strained relations between the parties, as well as the criminal antecedents of the petitioner cannot be overlooked at this stage since the prosecution evidence is yet to be recorded.

12. While it has been contended that the petitioner did not inflict the fatal injuries, the totality of circumstances, including the eye-witness account and CCTV footage, prima facie hint towards his active involvement in the crime in question. The criminal history of the petitioner, which includes heinous offences, and the fact that the present crime was committed while he was on bail, further dissuades this Court

from granting him the concession of bail. The submission regarding parity with co-accused Sunny and Rinku also does not hold merit, as their roles are materially different. Unlike the petitioner, they were not named in the FIR, and their alleged involvement is based on disclosure statements, with no direct role attributed to them in the commission of the crime.

13. Given the gravity of the allegations, and the fact that material witnesses, including the complainant are yet to be examined, this Court does not deem it fit to extend the concession of bail to the petitioner. The petition is accordingly dismissed. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

December 3, 2024

rps

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