



232

Ashu @ Hukka

Petitioner

V_S.

State of Haryana

Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Karan Verma, Advocate
for the petitioner.
Ms. Sheenu Sura, DAG, Haryana.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the instant petition under Section 528 of B.N.S.S. with a prayer to grant a regular bail in case FIR No.90 dated 23.01.2019 registered under Sections 302, 120-B, 34 IPC and Sections 25, 54 and 59 of Arms Act, Police Station Shivaji Nagar, District Gurugram.
2. The FIR in the present case was registered on the basis of statement made by Suresh son of Kuldeep Singh and the same has been reproduced below:-

“Statement of Mr. Suresh S/o Mr. Kuldeep Singh R/o H.No. 771/18 Street No. 6 Om Nagar Gurgaon Age 28 years M.No. 9268359130 . That I am a resident of the above address and I work as a truck mechanic in Narsinghpur for about four-five years. My uncle Jaidev

(J.D.) was getting some work done today at house No. 601/B Shivaji Nagar Gurugram. So I also came to my uncle Jaidev's place at about 6:00 PM and I was talking to uncle Jaidev, then my uncle Jaidev started going from house Shivaji Nagar to Om Nagar at about 6:45 PM in the evening. As soon as my uncle Jaidev came out of the house, I heard the sound of a gunshot. When I came out of the house, I saw that my uncle was shot and blood was oozing coming out. So I looked on the way and there were three boys on two bikes, out of which one motorcycle was of white colour and the other motorcycle was of black colour. I could not see their numbers. Those, who fired, at my uncle Jaidev S/o Shri Sohanlal R/o H.No. 771/18 Street No. 6 Om Nagar ran away on both the motorcycles after which I along with my brother Gopal took my uncle Jaidev to Medanta Hospital, Gurugram for treatment. Where the doctor declared my uncle dead after checking him. Today I have given you my statement in writing and I have heard it which is correct Suresh ASI ANIL PS SHIVAJI NAGAR GGM dated 23/01/2019”.

3. Learned counsel for the petitioner contends that the present petitioner was not named in the FIR nor any specific allegation was levelled against him. He was arrested in the present case on the basis of the disclosure statement suffered by co-accused, namely, Pawan @ Kali. Moreover, the prosecution was under a legal obligation to conduct the test identification parade, which was not done. The petitioner was arrested in the present case on 25.04.2019 and the trial is not likely to conclude in near future. Learned counsel

has placed reliance on various orders (Annexures P-3 to P-9) passed by the Courts, whereby, the concession of bail was granted to Sumit @ Vinit @ Chintu, Pawan @ Kali, Manish, Sandeep @ Bandar, Sanjeet, Sushil @ Malinga and Sachin. Since, the other accused have been granted the concession of bail, who is also liable to be released on bail by this Court.

4. On the other hand, learned State counsel has vehemently opposed the submissions made by the petitioner on the ground that on 28.01.2019, accused Pawan @ Kali was apprehended and was interrogated. During interrogation, he admitted his guilt and during his police custody, he suffered his statement that on instructions given by his friend, Kaushal, the recce of Jaidev @ Jedi jointly by him and Vinit @ Chintu. After planning with Kaushal, Sandeep @ Bandar, Umesh, Ashu @ Hukka and Malinga had killed Jaidev by shooting him. He further contends that the petitioner got recovered three pistols and 07 live cartridges from his house and the same were taken into possession by the police. The petitioner is in custody since 25.04.2019 but the allegations levelled against him are very serious and as per the record, the petitioner has been found involved in the following other criminal cases:-

i.) Case FIR No. 172/2015 under Sections 233, 506, 147, 148, 149, IPC and 25, 54, 59 Arms Act PS Pataudi. In this case the petitioner has been acquitted vide orders dated 12.09.2023 passed by the court of learned Judicial Magistrate First Class Pataudi.

ii.) Case FIR No. 852/2016 under Sections 420, 476, 176, 353, 307, 332 IPC and Arms Act PS Pataudi. The case is under trial.

iii.) Case FIR No. 340/2016 under Sections 302, 34 IPC and 25, 54, 59 Arms Act PS Sector 10 Gurugram. The case is under trial fixed for 10.02.2025.

iv.) Case FIR No. 473//2018 under sections 307, 506, 34, 387, 216, 120-B IPC and 25, 54, 59 Arms Act PS Sector 10 Gurugram. The case is under trial.

v.) Case FIR No. 62//2019 under Sections 302, 386, 180, 34 IPC and 25, 54, 59 Arms Act PS Badshahpur, Gurugram. This case is under trial.

vi.) Case FIR No. 39//2018 under Sections 379-A, 472, 34 IPC PS Rajendera Park Gurugram. The case is under trial and fixed for 11.12.2024 for Prosecution Evidence.

vii.) Case FIR No. 260//2019 under Sections 174-A PS Rajendera Park Gurugram. In this case the petitioner has been convicted and sentence to undergo imprisonment for the period already undergone vide orders dated 13.12.2019 passed by the court of learned Judicial Magistrate First Class Gurugram.

viii.) Case FIR No. 537//2021 under sections 174-A PS Shivaji Nagar Gurugram. In this case the petitioner has been acquitted vide orders dated 22.02.2022 passed by the court of learned Judicial Magistrate First Class Gurugram”.

Even, Sanjeet, Kaushal, Umesh and Sandeep @ Bandar

are also in custody.

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

6. The petitioner is a hard core criminal and is found involved in 08 other criminal cases. Out of those 08 cases, two other cases are also under Section 302 IPC. Even, he was declared proclaimed offender in two cases and has faced prosecution under Section 174-A IPC. Even, there is a reasonable apprehension that in case the petitioner is enlarged on bail, he may tamper with the prosecution evidence.

7. Finding no merits, the present petition is ordered to be dismissed.

24.02.2025
amit rana

(N.S.SHEKHAWAT)
JUDGE

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