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High Court Of Punjab And Haryana At Chandigarh

Case No: CRM No. M-16758 of 2014

Abhishek @ Sonu — APPELLANT

Vs

The State of Haryana — RESPONDENT

Date of Decision: May 29, 2014

Acts Referred:

- Arms Act, 1959 - Section 25, 27, 30
- Criminal Procedure Code, 1973 (CrPC) - Section 161
- Penal Code, 1860 (IPC) - Section 109, 148, 149, 302
- Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 - Section 3, 4

Hon'ble Judges: Mehinder Singh Sullar, J

Bench: Single Bench

Advocate: Rajesh Khandelwal, Advocate in CRM No. M-16758 of 2014, Mr. Gunjan Mehta, Advocate for Mr. Jitender Dhanda, Advocate in CRM No. M-16844 of 2014, Mr. N.S. Shekhawat, Advocate in CRM No. M-16910 of 2014, Mr. Sant Lal Barwala, Advocate in CRM No. M-17531 of 2014, Advocate for the Appellant; Ajay Ghangas, Additional Advocate General, Haryana and Mr. Sunil Saharan, Advocate for the Respondent

Final Decision: Allowed

Judgement

Mehinder Singh Sullar, J.
As identical points for consideration to grant the concession of regular bail to the petitioners or otherwise, are involved, therefore, I propose to decide the above indicated petitions, arising out of the same FIR/cross-case, by virtue of this common order, to avoid the repetition of the facts.

2. The petitioners have directed the instant separate petitions in separate cross-cases arising out of the same incident for the grant of regular bail, in a case registered against them along with their other co-accused, namely, Ramesh, Rajesh @ Raj, Dilbag @ Kala, Virender @ Binder, Ravi, Vijender @ Bijender etc., vide FIR No. 279 dated 15.07.2013,

on accusation of having committed the offences punishable under Sections 148 & 302 read with section 149 IPC and Sections 25, 27 & 30 of The Arms Act, (the offences punishable u/s 109 IPC and Sections 3 & 4 of The Scheduled Caste & Scheduled Tribe(Prevention of Atrocities) Act, 1989 were added later on), by the police of Police Station Barwala, District Hisar.

3. Notices of the petitions were issued to the State.

4. After hearing the learned counsel for the parties, going through the record with their valuable help and after deep consideration over the entire matter, to my mind, the present petitions for regular bail deserve to be accepted in this respect.

5. Tersely, the prosecution claimed that accused Sunder has caught hold of Balwinder @ Rinku, whereas main accused Vicky @ Mahakal son of Om Parkash (since deceased) has fired a shot from his rifle, which hit Balwinder @ Rinku, culminating into his death. Sequelly, according to the prosecution in the cross-case, Balwinder @ Rinku took the rifle from Surinder Singh Gill and Vicky @ Mahakal took the rifle from Sunder @ Surender and in a fit of anger, they fired shots on each other. Balwinder @ Rinku succumbed to his injuries at the spot, whereas Vicky @ Mahakal died subsequently. Prima facie, it appears to be a case of free-fight between both the parties in connection with the possession of the plot in question of Wakf Board.

6. Meaning thereby, all the main allegations of commission of murder of Balwinder @ Rinku (deceased) are assigned to main accused Vicky @ Mahakal (since deceased). Whereas the main allegations of murder of Vicky @ Mahakal (deceased) are attributed to Balwinder @ Rinku (since deceased). In this manner, neither any direct or specific role nor particular injuries on the person of deceased, are attributed to the present petitioners in the FIR. Moreover, it is not a matter of dispute that they were involved in this case, in pursuance of subsequent statement u/s 161 Cr.P.C. of accused Surinder Singh Gill son of Dhania Gill, recorded by the police on 08.01.2014 (i.e. after about six months of the present incident). What is the evidentiary value of such belatedly recorded statement and other evidence, inter alia, would be a moot point to be decided during the course of trial by the trial Court.

7. Not only that, Ramesh and others, similarly situated co-accused of the petitioners, were granted the concession of regular bail by this Court, by way of order dated 24.04.2014, rendered in CRM No. M-5456 of 2014, whereas Vijender @ Bijender, co-accused, was also granted the concession of regular bail by this Court, by virtue of order dated 13.05.2014, rendered in CRM No. M-12842 of 2014 and Jaibir alias Kabari & Surinder alias Kala co-accused, were granted the benefit of regular bail as well, by this Court, by means of order dated 15.05.2014, rendered in CRM No. M-15518 and 15762 of 2014 respectively. Therefore, in that eventuality, I see no reason not to extend the same concession of regular bail to the present petitioners under the similar set of circumstances.

8. Moreover, petitioner-Abhishek alias Sonu was arrested on 16.7.2013, petitioner Mahender was arrested on 15.8.2013, whereas, petitioner-Surender Singh Gill was arrested on 6.1.2014 and petitioner Rajiv Kaushik was arrested on 14.2.2014. Since then they are in judicial custody and no useful purpose would be served to further detain them in jail. Even, since the charges have not yet been framed against the accused, so, the conclusion of trial will naturally take a long time.

9. In the light of aforesaid reasons, taking into consideration the totality of facts and circumstances, emanating from the record, as depicted here-in-above and without commenting further anything on merits, lest it may prejudice the case of either side during the course of trial, the instant petitions for regular bail are hereby accepted. The petitioners are ordered to be released on bail on their furnishing adequate bail bonds and surety bonds to the satisfaction of the trial Court.

10. Needless to mention that, nothing observed here-in-above, would reflect, in any manner, on merits in the trial of the case, as the same has been so recorded for a limited purpose of deciding the present petitions for regular bail in this respect.