

209

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M No.6417 of 2015
Date of Decision: 03.03.2015**

Vineet @ Vint @ Surinder

.....Petitioner

Vs

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Ms. Divya Sharma, Advocate
for the petitioner.

Mr. Rajesh K. Sheoran, Addl. A.G., Haryana.

1. *Whether Reporters of local papers may be allowed to see the judgment ?*
2. *To be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

RAJ MOHAN SINGH, J.

This is a petition for grant of regular bail to the petitioner under Section 439 Cr.P.C in case FIR No.66 dated 12.02.2014 registered under Sections 148/149/302 of the IPC and Sections 25/54/59 of Arms Act at Police Station Camp Palwal, District Palwal.

FIR in question came to be registered at the instance of Jaipal Singh father of the deceased (Rohit Kumar). Prosecution story is that the complainant is running a security office in the name and style of M/s Choudhary Enterprises. The elder son of the complainant is Rahul Kumar whereas the name of the younger son is Rohit Kumar who was the student of 12th class and he was also learning singing.

On the fateful day at about 5.00 p.m. Rohit, Shiva along with his one more friend went to Gupta Farmhouse. Rohit called Rahul by saying that Vineet and four other boys were quarreling with him. On visiting the spot Rahul found that Vineet and his associates were fighting with Rohit.

The complainant further alleged that within his view Vineet had fired a shot on the left temple of Rohit with his country-made pistol. On receiving the bullet injury, Rohit fell down and the assailants fled away from the scene on two motorcycles Make Splendor and CD Deluxe. Rohit was brought to Hospital where he was declared dead.

Learned counsel for the petitioner submits that no recovery has been effected from the petitioner rather recovery of motorcycle shown from Suresh is of different make than the motorcycles allegedly used in the occurrence.

Learned counsel further gave same background in which relations between the petitioner and the complainant became strained. Earlier the petitioner was tenant in the house of complainant and prior to his commencement of tenancy there was a lady tenant in the premises and that lady had got registered one FIR against the complainant and his son. The petitioner favoured the cause of that lady and that soared the relation between the petitioner and the complainant.

According to the learned counsel for the petitioner the complainant was not present at the site and the eyewitness count

given by him is a farce. The alleged eyewitness namely Sachin has been examined as PW-2 and his statement in the Court gives a different version altogether. Relevant portion of his statement is reproduced as under:-

"I informed Rahul that these motorcyclists were having a gun with them. Now, me, Rahul and Rohit went on the same place where we had left Shiva to keep a track on the assailants. Then Rahul talked to the motorcyclists numbering four who were with faces covered. When Rahul proceeded to talk to them with a lathi, then his lathi was caught hold of by them. One of the assailants with covered face fired a shot on Rohit. We all tried to save ourselves. Father of Rohit met us during the way when we were going to informed him. I cannot identify the person who had fired the shot."

The afore-said eyewitness was declared hostile and was further cross-examined.

According to learned counsel for the petitioner nothing incriminating could come out from the cross-examination of the said witness.

Even the complainant has been examined as PW-1, who in his cross-examination has deposed that they had heard the sound of firing on the way and prior to that his elder son had reached the spot. The assailants also fired shot upon his son Rahul but he had an escape. Only two shots were fired by the accused and Rahul had

seen the accused firing the shot and he only heard the sound of firing.

From the statement of afore-said witnesses, *prima facie* it appears that the factum of presence of the complainant is a moot point to be debated. On being specifically asked, learned State counsel on instructions from Mahesh Kumar, ASI, who is present in the Court stated that there is no recovery of weapon from the present petitioner and only one motorcycle was recovered from the co-accused Suresh and that motorcycle is of Make Apache. Evidently two motorcycles used in the occurrence were having Make of Splendor and CD Deluxe.

Keeping in view the totality of the facts and circumstances of the case also in view of total period undergone by the petitioner this Court finds that bail can be granted to the petitioner.

Accordingly, this petition is allowed, petitioner is granted bail to the satisfaction of the CJM, Palwal.

March 3, 2015.
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(RAJ MOHAN SINGH)
JUDGE