

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

CRM-M-11666 of 2016.
Decided on:-23.09.2016.

Virender @ Banti.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. Gurinder Pal Singh, Advocate
for the petitioner.

Mr. Manish Bansal, DAG, Haryana
for the respondent-State.

HARI PAL VERMA, J.

Prayer in this petition filed under Section 439 Cr.PC is for grant of regular bail to the petitioner in case FIR No.117 dated 15.3.2014 under Sections 147/148/149/323/307/343/450/302/120-B IPC and Section 25 of the Arms Act, 1959 registered at Police Station Barwala, District Hisar.

Learned counsel for the petitioner has argued that no recovery has been effected from the petitioner and as per final report under Section 173 Cr.PC, two pistols were recovered i.e. one from the spot and another from co-accused Sushil. In the absence of recovery of any incriminating material from the petitioner, his involvement on the basis of alleged identification of spot and also on the basis of disclosure statement is not established and he cannot be kept in custody for such a long time as he is

already in custody for the last more than 2 years. The credibility of statements of witnesses is highly doubtful. Once no specific role has been attributed to the petitioner in the FIR as well as statements of witnesses, he deserves to be released on bail.

On the other hand, learned State counsel has argued that during investigation, convincing evidence was collected wherein it has surfaced that the petitioner was involved in the conspiracy of the occurrence. The petitioner has made a disclosure statement that on 15.3.2014, he along with his brother Sheelu @ Sushil, Rakesh son of Balbir, Sonu son of Randhir, Dhoop @ Mopal son of Roshan, Sunil son of Inderpal Hooda and Dinesh were having pistols and cartridges and they in conspiracy with each other have murdered Kuldeep and his mother Sudhan Devi. The petitioner demarcated the place of occurrence where the incident had taken place.

I have heard learned counsel for the parties.

Reply by way of affidavit of Rajbir Singh, HPS, DSP, Barwala has already been filed on behalf of the respondent-State. Along with said reply, statements of PW3 Suresh Kumar and PW4 Surender @ Sushi have been attached. PW3 Suresh Kumar in his statement has attributed a specific role to the petitioner to the effect that he along with other co-accused was carrying pistol and after reaching the Chobara, all the accused started firing hitting his brother and his mother. This witness has seen the petitioner while going upstairs. He also noticed indiscriminate firing. Similarly, PW4 Surender @ Sushi has also attributed participation of the petitioner in the

alleged crime.

Taking into consideration the disclosure statement made by the petitioner-accused as well as the statements of PW3 and PW4 and the background of the case that two deaths have been caused by the accused, this Court does not find any reason to admit the petitioner on regular bail. As such, the present petition is hereby dismissed.

It is made clear that the observations made hereinabove shall have no bearing on the merits of the case and the trial Court shall decide the case on the basis of evidence available on record.

September 23, 2016
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes / No

Whether Reportable: Yes / No