

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

**CRM-M No.2854 of 2016 (O&M)
Date of Decision: 05.05.2016**

Ishmail

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Arafat Hussain and Mr. Paramjit Singh Jammu, Advocates
for the petitioner.

Mr. Yashwinder Singh, Deputy Advocate General, Haryana
for the respondent/State assisted by D.S.P. Mahabir Singh.

Mr. Amit Jain, Advocate for the complainant.

JASWANT SINGH, J. (Oral)

Prayer is for grant of regular bail under Section 439 Cr.P.C. to the petitioner-Ishmail in case FIR No.471 dated 03.09.2015 for the offences punishable under Sections 148, 149, 323, 452, 307, 302 of the Indian Penal Code and Sections 25/54/59 of the Arms Act, registered with Police Station Punhana, District Mewat.

The dispute between the group aligned to the Sarpanch-Talib and his opponent Usman, Ex-Sarpanch erupted at the time of finalization of preparation of a Voter List for the ensuing elections of Gram Panchayat Village Jadoli, Tehsil Punhana, District Mewat. The accused group is the one aligned to Talib and is alleged to have thrown stones on the opposite group and the main accused Talib is alleged to have fired shots from a country made pistol in the air. The pelting of stones has resulted into the injuries to some persons and also alleged to have caused death of one minor girl Manisha on account of injuries sustained by her. The gun shot in the air have

resulted into the death of one Imtiaz son of the complainant-Nijar, who was studying on the rooftop of the adjacent house.

The role of the petitioner/accused-Ishmail is that of firing shots from his country-made pistol, which has not hit anybody as it is the shot fired by main accused Talib, which hit deceased-Imtiaz.

It is submitted that as per the post mortem report of Imtiaz, he has received one gun shot injury with entry from the right backside and exit from the front with blackening of the area. Thus, it is contended that the gun shot has to be from close range whereas the presence of the petitioner/accused-Ishmail is in the street and that of Imtiaz on the roof of a house adjoining the street.

The petitioner is stated to be in custody since 04.09.2015 and evidence of 39 cited prosecution witnesses is yet to commence.

Learned State Counsel, assisted by DSP Mahabir Singh and learned Counsel for the complainant, is unable to refute the custody period and the stage of the trial, as also the role attributed to the petitioner.

Without commenting on the merits of the case, keeping in view the role attributed to the petitioner, custody period, and the fact that trial is not likely to be concluded in near future, this Court finds that petitioner/accused deserves the concession of regular bail and as such he is ordered to be released on bail to the satisfaction of CJM/Duty Magistrate concerned.

Disposed of.

May 05, 2016

Gagan

**(JASWANT SINGH)
JUDGE**