

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

**CRM No.M-26031 of 2017
Decided on: 28.07.2017**

Suresh

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Rajesh Bansal, Advocate
for the petitioner.

Mr. Naveen Sheoran, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

The petitioner prays for grant of regular bail under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.513 dated 09.12.2015, for offence punishable under Sections 302 read with Section 34 of the Indian Penal Code, 1860 (in short 'IPC') and 25 of the Arms Act, registered in Police Station Indri, District Karnal.

Learned counsel for the petitioner has submitted that as per the averments in the FIR, on 09.12.2015 in the night at about 01:00 A.M., the complainants were travelling in a canter from Nawanshehar to their village in Uttar Pradesh for the purpose of casting their votes. It is further alleged in the FIR that it was heavy fog in the night and the canter went to Bhanu Kheri towards the mining area of sand instead of Yamuna Ghat and when they reached near T point at Bhanu Kheri, suddenly firing from the side of fields started and one Khushnood son of Shamshad was hit with a bullet injury and he died at the spot. It is also alleged that Parvesh, Ahsaan and Ali Hassan also sustained bullet

injuries. The police later arrested the petitioner, a Constable in Haryana Police who was assigned the duty of a Driver in official vehicle Tata Sumo along with one Constable Ravinder who was having his SLR and they were on guard duty. Learned counsel for the petitioner has submitted that as per the allegation in the FIR, no specific role has been attributed to the petitioner as it was dense fog and dark at 01:00 A.M. in the night when the alleged occurrence has taken place. Learned counsel has further submitted that the petitioner was only a Driver and was not assigned with any arm and ammunition in his official capacity, therefore, he has not caused any injury to deceased – Khushnood. It is further submitted on behalf of the petitioner that as per the post-mortem report of Khushnood, the injury which was fatal was found to be a bullet injury from SLR of Constable Ravinder and the three other injured persons named in the FIR i.e. Parvesh, Ahsaan, Ali Hassan were never medico legally examined by the police to support their version. Learned counsel further contended that the petitioner is in judicial custody since 13.12.2015 and challan has been presented on 20.08.2016 after a long time. The case before the trial Court is now stated to be fixed for 03.08.2017 for framing of charge and, thus, conclusion of the trial will take long time.

On the other hand, learned State counsel, on instructions from SI Satpal Singh, has opposed the prayer for bail on the ground that the bail application of co-accused has already been dismissed and three accused are yet to be arrested.

Heard.

Without meaning to express any opinion on merits of the

case, the petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate, Karnal.

(ARVIND SINGH SANGWAN)
JUDGE

28.07.2017
yakub

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