

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

CRM-M-36671 of 2017.

Decided on:-November 21, 2017.

Sanjay @ Khan @ Totiya and another

.....Petitioners.

Versus

State of Haryana

.....Respondent.

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

Present:- Mr. Ram Niwas Kush, Advocate
for the petitioners.

Mr. Manish Bansal, DAG, Haryana.

HARI PAL VERMA, J. (ORAL)

Prayer in this petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioners in FIR No.159 dated 02.07.2016 under Section 302 read with Section 34 IPC and Section 25 of the Arms Act, 1959 registered at Police Station Adampur, District Hisar.

The aforesaid FIR was registered on the basis of statement of complainant Rahul. Allegations against the petitioners are that on 01.07.2016, when the complainant was coming towards his house along with his brother Ravi @ Bablu and neighbour Sahil and when they have reached near the house of Om Parkash Yadav, three accused came from the back side on a motorcycle. Out of these three accused, while Badal @ Sunil had given a fist blow on the back of Ravi @ Bablu, the other two accused also started handcuffing with Ravi @ Bablu. Accused Badal @ Sunil fired a shot on the

person of Ravi @ Bablu from a pistol hitting his right arm. When Ravi @ Bablu started running due to fear, accused Badal @ Sunil fired two more shots on him, hitting on his head. The other two accused also tried to catch hold his brother and after causing injuries, all the three accused ran away with the pistol on their motorcycle. The injured was shifted to hospital at Adampur from where he was referred to Agroha Medical College, but due to excessive injuries, the injured had died.

Learned counsel for the petitioners has argued that the petitioners were never identified by the complainant and the complainant was not present at the spot. The names of the petitioners have been disclosed by the complainant in his supplementary statement and, therefore, the prosecution version is palpably false. No role has been attributed to the petitioners and the petitioners have not caused any injury to the deceased. They are in custody since 25.07.2016.

On the other hand, learned State counsel has argued that PW4 Sahil, who is an eye-witness of the occurrence, has supported the prosecution case and the motorcycle in question used in the crime was recovered from the possession of petitioners. The involvement of the petitioners has duly been established. He has further argued that out of 13 prosecution witnesses, 5 witnesses have already been examined by the prosecution.

I have heard learned counsel for the parties.

The evidence of PW4 Sahil cannot be ignored at this stage. He is an eye-witness of the occurrence and has specifically named the petitioners. Even otherwise, the motorcycle used in the crime was recovered from the

possession of petitioners. Therefore, the plea of learned counsel for the petitioners that the petitioners were not found involved in the commission of crime, cannot be accepted at this stage. The police has conducted investigation and it is during the course of investigation, names of the petitioners find placed.

Since the petitioners along with other co-accused have allegedly caused the death of Ravi @ Bablu, this Court does not find any merit in the present petition for the grant of regular bail and the same is, accordingly, dismissed.

However, the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

November 21, 2017
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No