

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

CRM-M-28297-2018 (O&M)

Date of Decision:-26.7.2018

Jishan @ Chini

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. G.C. Shahpuri, Advocate for the petitioner.

Mr. Manish Bansal, Deputy Advocate General, Haryana.

GURVINDER SINGH GILL, J.(Oral)

The petitioner Jishan @ Chini has filed this petition seeking grant of regular bail in respect of a case registered against him vide FIR No.236 dated 1.11.2016 under Sections 279, 307, 429 and 34 of Indian Penal Code, 1860, Sections 25/54/59 of Arms Act and Section 13(II) of Haryana Gau Sanrakshan & Gau Samvardhan Act, 2015 at Police Station Sadar Yamuna Nagar.

The allegations as per FIR are that deceased Rishi Pal alongwith Abdul Rahim were going on a tractor trolley, which was driven by Abdul Rahim while Rishi Pal was sitting on the mudguard. The said tractor trolley got stuck under a bridge due to height limitations. While Rishi Pal was trying to remove the obstruction, one Mahindra Pick-up came from behind, which also got stuck into the tractor trolley. It is alleged that in the

meanwhile two persons alighted from said Mahindra Pick-up and started firing and some other persons who were following the said Mahindra Pickup fired back. It is alleged that subsequently the driver of Mahindra Pick-up reversed the vehicle and ran away from the spot and the other vehicle which was following Mahindra Pick-up also sped away from there. Subsequently, the complainant noticed that Rishi Pal had sustained bullet injuries and took him to Civil Hospital Yamuna Nagar from where he was referred at PGI, Chandigarh. Due to serious injuries, Rishi Pal was got admitted in Gauba Hospital, Yamuna Nagar. The complainant has further alleged that subsequently he got to know the registration number of Mahindra Pick-up as No. PB-11BK-1036 in which animals had been loaded and the said vehicle was being followed by 'Gau Rakshak Dal' and he believes that Rishi Pal had sustained injuries from the gun-shot fired by driver of Mahindra Pick-up namely Meer Ahmad @ Gola.

During investigation, evidence has been collected by the prosecution to the effect that the present petitioner was holding power of attorney in respect of the Mahindra Pick-up, which had allegedly struck into the tractor-trolley, which had itself got stuck under the bridge.

I have heard the learned counsel for the petitioner as well as the learned State counsel.

It has been informed that though Rishi Pal had subsequently expired after one year from the occurrence but his death was natural and not on account of the injuries sustained in the occurrence in question. It is not disputed that there was cross-fire between the occupants of Mahindra Pickup and another vehicle, which was following it. It is also not in dispute that while the tractor trolley had got stuck under the bridge, the Mahindra Pickup

had reached thereafter and stuck into tractor trolley and that the said Mahindra Pick-up was being followed by another vehicle. As per FIR, it was only after the Mahindra Pick-up and the other vehicle had sped away from the spot that he came to know that Rishipal had also sustained injuries. It is debatable as to whether he sustained injuries on account of shot fired by occupants/driver of Mahindra Pick-up or on account of shot fired by occupants of the other vehicle following Mahindra Pick-up.

It has been informed by learned counsel for the State upon instructions from ASI Bhoop Singh, who is present in Court, that the petitioner has been behind bars since the last more than 11 months. It has also been informed that the petitioner is also involved in another case under NDPS Act, in which he has already been granted bail.

Bearing in mind the facts and circumstances of the case and also the fact that the conclusion of trial is likely to take some time, no useful purpose will be served by detaining the petitioner behind bars any further.

In view of abovesaid facts and circumstances, the present petition is allowed. The petitioner Jishan @ Chini is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

26.7.2018

pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No