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

Date of Decision: 20.03.2018

1. CRM-M No.37028 of 2017

Rahul @ Monu

.....Petitioner

Vs

State of Haryana

.....Respondent

2. CRM-M No.4123 of 2018

Sameer @ Sharad

.....Petitioner

Vs

State of Haryana

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present:Mr. A.S. Sullar Advocate
for the petitioner in CRM-M No.37028 of 2017.

Mr. Kunal Dawar, Advocate
for the petitioner in CRM-M No.4123 of 2018.

Ms. Neelam Kashyap, D.A.G., Haryana.

RAJ MOHAN SINGH, J.(Oral)

Vide this common order CRM-M No.37028 of 2017
titled Rahul @ Monu Vs. State of Haryana and CRM-M No.4123

of 2018 titled Sameer @ Sharad Vs. State of Haryana are being disposed of.

Petitioners seek grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.70 dated 06.02.2017 registered under Sections 302, 201, 120-B, 212, 34 IPC read with Sections 25/54/59 of the Arms Act at Police Station Palam Vihar, Gurugram.

In the FIR, complainant alleged that as per information received by him, Vikrant was taken away by Vikas Dalal, Anshul Dhankar and Rahul along with their friends in a car. They dropped Vikrant outside the panchayat ghar and by firing shots, he was murdered. Disclosure statement of co-accused Anshul Dhankar would show that there was one meeting held on 05.02.2017 in his house which was attended by Vikas Dalal, Kamal, Lucky, Vishal @ Babu and one more person. His cousin brother Neegan @ Sharad brought one beat car of his friend. As per plan, Vikas Dalal and Kaptan @ Cheeta were sitting in beat car and went to pick Rahul @ Monu from his house. Vikas Dalal stated that Kaptan @ Cheeta and Rahul will bring Vikrant and on receiving the signal, they are to follow the car. In second disclosure statement of Kaptan @ Cheeta, he disclosed that he was armed with country made pistol, Gaurav @ Lucky was armed with country made pistol, Vikas Dalal and Anshul

were armed with their weapons and all of them fired upon Vikrant. Kaptan fired two shots upon Vikrant and thereafter, handed over the weapon to Vikas Dalal. Disclosure statement of the petitioner was also recorded to the effect that on 05.02.2017 at about 10.30 AM, Vikas and one boy came to his house in beat car and all of three went to Sector 14, Dwarka in the said car. At about 12.00 PM, they reached at Fire Noise Bar, Sector 10, Dwarka, Delhi and started consuming beer. Vikas told that he was keeping grudge with Vikrant due to some gang war. He also stated that Vikrant can come with him if called. During this conversation, phone of Vikrant came on the mobile of the petitioner and he asked about his whereabouts on which petitioner disclosed the place where they were consuming beer at the instance of Vikas. Vikrant came there and all consumed beer in the bar. Thereafter, they sat in the car and went towards Gurugram. Vikas was driving the car. When the car reached near Raj Gheda turn Gurugram, then one I-20 car was found parked there in which Anshul and three more persons were sitting. Vikas gave a signal to Anshul and all reached at a distance of half km from there and stopped the car. Vikas came out from the car and fired shots upon Vikrant. Vikrant started running, but other friends of Vikas also fired shots upon Vikrant who ultimately fell down. Anshul and his friends also fired shots upon Vikrant in the lying condition.

Learned counsel for the petitioner submitted that no overtact has been attributed to the petitioner, nor any recovery of weapon was made except a battery of mobile belonging to the deceased whose mobile was left in the car. Petitioner is in custody since 02.02.2017. Charges have not been framed so far. There is a long list of PWs.

As against this, learned State Counsel on instructions from ASI Shree Bhagwan submitted that as per call details available with the police, the accused was in regular touch with Vikas as well as the deceased. Though there is no past history of criminal activity of the petitioner, but he was arrayed with the aid of Section 120-B IPC in the present case.

In view of material on record, at this stage, the complicity of the petitioner would be debatable as to his participation in the meeting dated 05.02.2017 which was held at the house of accused Anshul. As per disclosure statements, name of the petitioner has not come forth as participant in the aforesaid meeting. Even as per the disclosure statement of the petitioner himself, on being asked by Vikas to summon the deceased, he did not do so, rather phone of the deceased himself came to him and he enquired about his location.

Prima facie, it appears that the petitioner has not participated in the process of prior meeting of mind between

other accused, however, no such firm finding can be recorded at this stage.

So far as involvement of Sameer @ Sharad is concerned, his name was disclosed in the disclosure statements of Vikas, Gaurav and Anshul Dhankar to the extent of showing him to be present in the car without participating in the actual occurrence of firing. No recovery has been effected from the petitioner. He happens to be related to co-accused Anshul Dhankar i.e. one of the main accused. Petitioner has not inflicted any injury to the deceased, nor any recovery of firearm has been effected from him. He is in custody since 31.08.2018.

At this stage, without meaning anything on the merits of the case, particularly in view of number of witnesses cited in the case and the stage of trial, I deem it appropriate to enlarge the petitioners on regular bail subject to their furnishing heavy bail bonds and surety bonds to the satisfaction of the trial Court.

Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

March 20, 2018.

Prince

**(RAJ MOHAN SINGH)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No