

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

**CRM-M No.46777 of 2017
Decided on: 29.05.2018**

Azad Singh

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Bijender Dhankhar, Advocate
for the petitioner.

Mr. Naveen Sheoran, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner in FIR No.724 dated 21.07.2017, for offence punishable under Sections 302, 307, 120-B read with Section 34 of the Indian Penal Code (in short 'IPC') and 25 of the Arms Act, registered at Police Station Sadar, Hisar, District Hisar.

Counsel for the petitioner has submitted that as per the FIR, which is registered on the statement of one Jagdish Rai Sharma, 04 persons namely Ashok @ Lota son of Jasbir, Ashok son of Sita Ram, Surjeet son of Prabhu Ram and Ramesh son of Inder Singh, all residents of village Matershyam had come at the bus stop and were talking to his son Balwant and thereafter, Ashok @ Lota and Ashok fired many round with their respective pistols to Balwant and, thereafter, they also fired shot at Balwant's friend namely Pardeep @ Deepu. Both the injured were referred to the Government Hospital and during the treatment, Balwant died and Pardeep @ Deepu was referred

to some other hospital. It is further stated in the FIR that the son of the complainant was killed on account of an election dispute, by hatching a conspiracy with Babloo @ Sita Ram, Ram Kamal son of Ajeet, Hanuman @ Lillu son of Munsu Ram and Ashok @ Lota.

Counsel for the petitioner has further submitted that, thereafter during the trial, the statement of one Jatinder Kumar son of Jagdish Ram has been recorded as PW2 and he has deposed as per the line of the FIR. Counsel for the petitioner has relied upon the statement of Jatinder Kumar – PW2, which is placed on record as Annexure P4, to submit that he has not named the petitioner in his entire statement.

Counsel for the petitioner has further relied upon the statement of another injured – Pardeep @ Deepu, recorded under Section 161 Cr.P.C (copy attached as Annexure P2) to submit that even this injured witness has given the version on the line of the FIR and he has also not named the petitioner in any manner.

Counsel for the petitioner has, thus, submitted that neither in the FIR nor in the statement of PW2, the witness/brother of deceased – Balwant as well as the injured witness – Pardeep @ Deepu have named the petitioner and he has been implicated on the disclosure statement of one of the co-accused, who has deposed that the petitioner has arranged the fire arm weapons for them. It is further submitted that even in the disclosure statement of the petitioner nothing has come on record from where the said weapons were procured except that the same were procured from Uttar Pradesh.

Counsel for the State, on instructions from SI Vishwajeet Singh, has not disputed the factual position and has submitted that after

recording the statement of PW2, the prosecution has moved an application under Section 319 Cr.P.C. for summoning additional accused who were named being part of the conspiracy.

Counsel for the State has also filed the Custody Certificate today in the Court and as per the Custody Certificate, the petitioner has undergone 09 months and 28 days of actual sentence and he is on bail in one FIR No.526 registered under Sections 323 and 325 IPC.

Without commenting anything on merits of the case and considering the fact that the petitioner is not named in the FIR or in the statement of the injured witness under Section 161 Cr.P.C. as well as in the statement of eye-witness PW2 – Jatinder Kumar; he has undergone the judicial custody of about more than 09 months and conclusion of the trial will take some time, this petition is allowed and the petitioner is ordered to be released on bail subject to furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail, if the petitioner is found misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

29.05.2018
yakub

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