

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

CRM-M-7431-2019
Date of decision:21.02.2019

Irfan

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM : HON'BLE MR.JUSTICE GURVINDER SINGH GILL

Present: Mr. Sunil Panwar, Advocate
for the petitioner.

Ms. Aditi Girdhar, AAG, Haryana.

GURVINDER SINGH GILL, J. (ORAL)

1. The petitioner seeks grant of regular bail in case registered vide FIR No.134 dated 10.05.2016 under Sections 302, 34 Indian Penal Code and Section 25 of the Arms Act, Police Station Tauru, District Nuh, Haryana.
2. The FIR was lodged at the instance of Amin wherein it has been alleged that on the day of occurrence at about 11:00 a.m. Irfan came on motorcycle and took his son Tarif along with him. It is alleged that later on at about 2:30 p.m. Irfan and Khalid brought his son Tarif on motorcycle who was drenched in blood and dropped him

on the passage in front of his house. When the complainant and his brother Janu tried to stop them and asked them what has happened they stated that they would return back shortly in a vehicle and then they would inform them but said accused did not return back. It is alleged that upon examining Tarif he was found to be dead and was found to be sustaining bullet injury on the left side of stomach and there was an exit wound as well and blood had oozed profusely. It is further stated therein that legs and toes bore bruises and abrasions apparently due to dragging on road. It is further alleged therein that upon inquires the complainant come to know that Khalid and Irfan had murdered his son as there had been a minor quarrel between the deceased and the said accused about 8/10 days back.

3. Learned counsel for the petitioner has submitted that he has falsely been implicated in the present case and there is no credible evidence to connect him with the alleged murder of Tarif. The learned counsel has drawn the attention of this Court to the statement of the complainant recorded in the Court wherein he has not stated a word to the effect that his son Tarif had accompanied the accused at 11:00 am as has been narrated in the FIR. The learned counsel has further submitted that had the petitioner-accused murdered Tarif, then they would not have taken pains to drop the dead body at the house of the complainant and to get suspected and invite trouble for themselves.

4. Opposing the petition, the learned State counsel has informed that

since the petitioner is specifically named in the FIR and was seen by the complainant along with the deceased when the deceased was dropped at the home, no case for grant of bail is made out. Learned State counsel has further informed that trial in any case is virtually at the fag end as all the PWs have already been examined.

5. Learned counsel for the petitioner has however informed that although PWs have been examined but an application under Section 319 Cr.P.C. was moved by the prosecution so as to summon 'Khalid' as a co-accused to face trial along with present petitioner, but upon the said application having been dismissed, a revision petition was filed in this Court wherein notice of motion has been issued and a direction has been issued to the trial Court not to pass a final order. The said revision petition is stated to be fixed for hearing on 29.04.2019. Learned counsel for the petitioner has submitted that in these circumstances the incarceration of the petitioner would be unnecessarily prolonged at least till the pendency of the revision petition in this Court, wherein directions have been issued for stay of passing of the final order before the trial Court.
6. Having considered rival contentions addressed before this Court and while bearing in mind the case is mainly based on circumstantial evidence and also that the petitioner has been behind bars since last more than 2 years and 9 months and conclusion of trial may still take more time as passing of the final order by the trial Court has been stayed by this Court, in my opinion, no fruitful

purpose would be served by further detaining the petitioner behind bars. The petition, as such, is accepted and it is ordered that petitioner be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

7. It is, however, clarified that none of the observations made above shall be taken to be an expression on merits of the main case.

21.02.2019
Gaurav Sorot

(GURVINDER SINGH GILL)
JUDGE

Whether reasoned / speaking? **Yes / No**

Whether reportable? **Yes / No**