

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

**CRM-M No.41048 of 2018 (O&M)  
Date of Decision: 18.10.2019**

Sachin

..... Petitioner

*Versus*

State of Haryana

..... Respondent

**CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU**

Present: Mr. Jagdish Manchanda and Mr. Ravi Gakhar, Advocates  
for the petitioner.

Mr. Tanuj Sharma, AAG, Haryana for the respondent/State.

\*\*\*\*

**MAHABIR SINGH SINDHU, J. (Oral)**

Present petition has been filed under Section 439 Cr.P.C. for grant of bail pending trial to the petitioner in case bearing FIR No.336 dated 07.11.2017, under Sections 302, 120-B, 216/34 of the Indian Penal Code, 1860 and Sections 25/54/59 of the Arms Act, 1959, registered at Police Station Julana, District Jind.

As per the prosecution case, the above FIR was registered on the basis of statement made by complainant-Dharambir with the allegations that on 06.11.2017 at about 08:30/09:00 PM, his brother-Satbir was sitting on a chair near liquor vend, Karela and he had gone to purchase some eggs near the vend. At that time, Vikas son of Mukesh, Mukesh son of Tara Chand and one unknown boy came on a motorcycle from the village side. Vikas was armed with Pistol and he fired a gun shot upon his brother with the intention to kill him and thereafter, all three boys fled away from the spot towards village Uglana on their motorcycle. Injured-Satbir was taken to CHC Julana for treatment, but Medical Officer after examination

referred him to PGIMS, Rohtak, however, during treatment, he died on account of the abovesaid gun shot injury.

Contents that petitioner is neither named in the FIR; nor any incriminating material has been recovered during investigation. Further contends that even complainant-Dharambir, while appearing as PW-1, has also not stated in his testimony that petitioner was present at the time of occurrence or he is involved in any manner in the commission of crime. Also contends that petitioner is in custody since 27.11.2017.

The above factual position is duly acknowledged by learned State Counsel, on instructions from S.I. Kuldeep Singh, but opposed the bail.

Heard both sides and perused the paper-book.

Petitioner is in custody since 27.11.2017 and trial is going on smoothly. Complainant-Dharambir has been examined as PW-1 and during his testimony on 20.12.018, inter alia deposed as under:-

*“I was present there at a distance of 8/10 steps. After fired upon my brother Satbir, accused persons fled away from the spot along with motor cycle and weapons. Their names are Vikas son of Mukesh, Mukesh son of Tara and Vijay son of Krishan. The bullet hit on the left chest of my brother. Bullet hit on the right side of chest of my brother Satbir. Vijay was driver of the motor cycle and Vikas and Mukesh were pillion riders of the motor cycle. Vikas fired upon my brother Satbir.”*

In view of above, it is apparently clear that complainant (PW-1), who is stated to be an eye-witness, has nowhere named the petitioner either at the time of registration of the FIR or during his

testimony before learned trial Court, thus, further incarceration of the petitioner will not serve any purpose. Consequently, without expressing any opinion on the merits of the case, the present petition is allowed. Petitioner be admitted to bail on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court/Duty Magistrate concerned.

The above observations may not be construed as an expression of opinion on the merits of the case.

It is clarified that in case there is any recurrence on the part of the petitioner, State of Haryana would be at liberty to move an appropriate application for recalling of this order.

October 18, 2019

Gagan

(MAHABIR SINGH SINDHU)  
JUDGE

|                           |     |
|---------------------------|-----|
| Whether speaking/reasoned | Yes |
| Whether Reportable        | Yes |