

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No. 54277 of 2018
Date of Decision: 27.02.2019

Mahesh

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Rakesh Nehra, Advocate for the petitioner.
Mr. Yashwinder Singh, DAG, Haryana
for the respondent/State.

MAHABIR SINGH SINDHU, J. (Oral)

The present petition has been filed under Section 439 of the Code of Criminal Procedure (for short 'Cr.P.C') for grant of bail pending trial to the petitioner in case FIR No.261 dated 01.06.2017, under Section 302/34 of the Indian Penal Code and Section 25 of Arms Act, 1959 registered at Police Station Sampla, District Rohtak.

Brief facts of the case are that FIR in question was registered on the statement of Naveen with the allegations that he along with his cousin, namely, Swaran Kumar and 2/3 other persons, were living in a rented house belonging to Ganga Ram. On 31.05/01.06.2017 at about 09:00 p.m, Swaran Kumar was washing utensils, then a sound of firing was heard and Swaran Kumar rushed inside the room followed by one tall and strong person who was firing from a pistol. Swaran Kumar was shot at and died of a bullet injury. The person, who had fired escaped in a white colour car which was standing outside along with another assailant. FIR was registered against

unknown persons and the petitioner is not named therein but during investigation he has been nominated on the basis of his disclosure statement in FIR No. 163 dated 01.03.2018, under Section 25 of the Arms Act, registered at Police Station Narwana City, District Jind.

It is contended that petitioner is in custody since 07.03.2018 and all the three material witnesses i.e PW2 Shiv Sada, PW3 Naveen and PW4 Chandan Kumar have not supported the prosecution case. Also contends that even co-accused namely Kunal @ Sonu has also been granted concession of bail by this Court on 26.04.2018 (Annexure P-4).

The above factual position is duly acknowledged by learned State counsel, on instructions from SI Jagdish Chander.

Since the petitioner is in custody since 07.03.2018; co-accused has already been granted bail and moreover none of the material prosecution witnesses i.e PW2, PW3 and PW4 have supported the prosecution case, therefore, his further incarceration would be of no use.

In view of the above, this Court is left with no option but to release the petitioner on bail during trial. Therefore, this petition is allowed and petitioner- Mahesh is ordered to be released on bail in this case on his furnishing adequate bail bonds and surety bonds to the satisfaction of learned trial Court.

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

27.02.2019

(MAHABIR SINGH SINDHU)
JUDGE

mamta

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No