

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

**CRM-M No. 27006 of 2019 (O & M)
Date of Decision:-16.09.2019**

Sagar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present:- Mr. Sumeet Goel, Advocate
for the applicant-petitioner.

Mr. Sukhdeep Parmar, DAG, Haryana.

Mr. Inderjit Sharma, Advocate
for the complainant.

MANOJ BAJAJ J.(Oral)

CRM-23872-2019

Allowed as prayed for.

CRM-25569-2019

Allowed as prayed for.

CRM-M-27006-2019

Petitioner-Sagar has filed the present petition under Section
439 Cr.P.C. for grant of regular bail pending trial in case FIR No. 305 dated

21.12.2018, under Sections 302, 450 and 120-B IPC read with Section 34 IPC and Section 25/29-54-59 of Arms Act, registered at Police Station Chhansa, District Faridabad.

The FIR was registered on the statement of Kishan Chand, Ex-Sarpanch of village Gharora, District Faridabad wherein it was alleged that the complainant has three sons and his grandson, Mohit, aged 23 years was working at Rainiwal Booster (Tubewell) Gharora for the last about 1-½ years alongwith Sagar s/o Jai Bhagwan. Both of them were on night duty. On 20.12.2018, Mohit went for his duty. At about 11.00 PM Sagar and his mother came to complainant's house and told him that somebody, who was at Booster (Tube Well), has shot bullets. Upon hearing this, complainant alongwith Kapil s/o Lal Chand reached there and saw his grand-son Mohit lying with his face down on his bed with blood oozing out of his head. Mohit was taken for treatment in a vehicle, but it was realized that he had died. Some unknown person had committed murder of Mohit by shooting bullets.

Learned counsel for the petitioner contends that the FIR lodged by Kishan Chand regarding the alleged offence of murder of his grand-son Mohit s/o Satish was infact based upon the information given by petitioner. He contends that the petitioner is not only disabled as his right arm was amputated, but was also a juvenile being below the age of 18 years, as declared by the Judicial Magistrate 1st Class, Faridabad vide order dated 07.2.2019. However, the Court has treated him as an adult.

As per the prosecution, the gun shot was fired by Manish upon

the victim and the petitioner has been indicted on the strength of criminal conspiracy on the ground that he had provided information to the said assailants about the presence of the victim at the tubewell. Mr. Goel contends that it was known to everyone that victim was employed for work at tubewell and occurrence took place during his working hours. Learned counsel further contended that the prosecution has attributed separate motives to the assailant Manish as well as the petitioner. He submits that the material witnesses Kishan Chand (complainant) and Kapil have already been examined by the prosecution and the remaining witnesses are formal witnesses.

On the other hand, the prayer is opposed by learned State counsel, who is assisted by ASI Kesh Ram, as well as the counsel for the complainant. It is pointed out that it was the petitioner who facilitated the crime by providing the requisite information to the assailant Manish regarding presence of the victim at tubewell. Learned counsel for the complainant contends that the victim used to tease the sister of the petitioner and therefore the petitioner had conspired with Manish to commit the said crime. Learned State counsel contended that Manish also had a motive who previously had some altercation with the victim. However, it is not disputed that the above mentioned two witnesses have been examined by the prosecution and still 27 witnesses remain to be examined. Learned State counsel further contends that the petitioner has been treated as an adult vide order dated 20.2.2019 passed by the Principal Magistrate, Juvenile Justice Board, Faridabad. It is also not disputed by learned counsel

for the complainant and the State that the gun shot was fired by Manish.

Considering the above and the fact that the trial is likely to consume some time, further detention of the petitioner may not be justified, therefore, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing the requisite bail bonds and surety bonds to the satisfaction of the trial Court, Faridabad.

The petition is allowed.

September 16, 2019
Vijay Asija

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes / No
Yes / No