

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

CRM-M-29017-2019
Date of decision:17.7.2019

PARVINDER KUMAR @ HAPPY

.....Petitioner

Versus

STATE OF PUNJAB

.....Respondent

CORAM : HON'BLE MR.JUSTICE GURVINDER SINGH GILL

Present: Mr. Navkiran Singh, Advocate
for the petitioner.

Ms. Rashmi Attri, AAG, Punjab
assisted by ASI Harbhajan Singh.

GURVINDER SINGH GILL, J. (ORAL)

1. The petitioner seeks grant of regular bail in case registered vide FIR No.120, dated 7.9.2017, registered at Police Station Mahilpur, District Hoshiarpur, under Sections 302, 148, 149, 120-B IPC and Section 25 of the Arms Act.
2. The FIR was registered at the instance of Amandeep Kumar @ Aman, wherein it has been alleged that on the day of occurrence when he was present in the house of Vipin Kumar, then Lovepreet Singh armed with a pistol, Rajesh Kumar @ Banta who was also carrying a pistol and Kamaljit @ Kamal Sahota along with 4-5

other unknown persons came there. It is alleged that Lovepreet Singh fired from his pistol at complainant's brother namely Rohit, hitting him on his chest. It is further alleged that Rajesh Kumar also fired at complainant's brother hitting him on his back. It is further alleged that later the complainant came to know that the said persons had come in vehicle bearing registration No.CH-01S-3614.

3. Mr. Naresh Kumar, Advocate has put in appearance on behalf of the complainant and has filed power of attorney, which is taken on record.
4. Learned counsel for the petitioner has submitted that he is not named in the FIR and has been nominated on the basis of a disclosure statement made by the complainant-Amandeep Kumar @ Aman on the day next to lodging of the FIR (Annexure P-3) wherein he has stated that it was on account of stress and on account of the fact that he was scared that he could not disclose the names of all the accused earlier. Learned counsel for the petitioner has further submitted that in any case it is not the case of the prosecution that the petitioner was armed with fire arm or had caused any injury to the deceased and in these circumstances, he deserves the concession of bail more particularly when one more identically situated co-accused has already been granted bail by this Court vide order dated 2.7.2019.
5. Opposing the petition, learned State counsel assisted by learned counsel for the complainant has submitted that the petitioner cannot

claim any benefit on the ground of parity for having been granted bail to Jatinder Singh since during investigation it was found that he ran away from the spot on his scooty. Learned State counsel has however informed that the petitioner has been in custody since last 1 year, 9 months and 15 days and that charges are yet to be framed and that as many as 34 PWs have been cited.

6. Having regard to the facts and circumstances of the present case and more particularly it is not the petitioner who had fired at the deceased and also that despite the fact that the petitioner has been behind bars since last 1 year, 9 months & 15 days the trial has not commenced inasmuch as even the charges have not been framed, 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 construed to be an expression on merits of the main case.

(GURVINDER SINGH GILL)
JUDGE

17.7.2019
Gaurav Sorot

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

Whether reportable? **Yes / No**