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

CRM-M No. 16941 of 2020 (O&M)

Date of Decision: 24.07.2020

Rajbir Singh

-Petitioner

Vs

State of Punjab

-Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Vishwajit Bedi, Advocate,
for the petitioner.
Mr. Saurav Khurana, D.A.G., Punjab.

RAJ MOHAN SINGH, J. (ORAL)

Petitioner seeks grant of regular bail under Section 439 Cr.P.C. in case bearing FIR No.51 dated 03.06.2016 under Sections 302, 307, 323, 411, 414, 148, 149 IPC registered at Police Station Rajasansi, District Amritsar (Rural).

As per allegations in the FIR, complainant Pardeep Singh alleged that on 03.06.2016, he along with his elder brother Malkit Singh had gone to bus stand on a motorcycle for their domestic work. When they were coming back after the assignment and were going to their village alongside the bank of canal, one Swift car came from behind and rammed into the

motorcycle of the complainant. Both the brothers fell from the motorcycle towards canal side. The motorcycle fell on the right side. Five persons came out of the car. Out of them, Ranjit Singh was armed with 315 bore rifle, Bikramjit Singh was armed with 12 bore gun. Karamjit Singh was having a pistol. Rajbir Singh (petitioner) was having small weapon. Name of one more person was not known to him, however, he could identify on being produced before him. They started firing shots from their weapons on the complainant and his brother Malkit Singh. Complainant and his brother Malkit Singh ran away to save their lives. The complainant went towards the bank of canal, but his brother Malkit Singh fell down on the ground due to hitting by bullets below his chest. Complainant saw from the bushes that all the assailants fired bullets with their weapons on his brother on the chest, below the chest and on the face and after killing him, they fled away from the spot. The complainant further alleged that about 05 years ago, one of the person was killed by brother of the complainant namely Kuldeep Singh. Due to that grudge, culprits have murdered Malkit Singh and also injured the complainant. With this background, the complainant Pardeep Singh got the FIR registered.

During course of investigation, nothing was recovered from the petitioner. No injury has been attributed to the petitioner.

Learned counsel for the petitioner submits that the complainant has concealed origin and genesis of the occurrence by not explaining the injuries on the person of Karamjit Singh-brother of the complainant. Karamjit Singh ultimately filed a criminal complaint i.e. Case No.30 of 02.08.2017 (CIS No.COMI/58/17) in the Court of Sub Divisional Judicial Magistrate, Ajnala. The Court has taken cognizance of the complaint and has passed an order of summoning dated 04.01.2018 on the basis of preliminary evidence adduced by the brother of the petitioner. Karamjit Singh and Pardeep Singh (complainant) sons of Kashmir Singh have been summoned as accused persons under Sections 307, 341 read with Section 34 IPC and Sections 25/27/54/59 of Arms Act.

Learned counsel for the petitioner submitted that in the criminal complaint, factum of murder of brother of the petitioner namely Gurinder Singh in the year 2012 was pleaded. He was murdered by Kuldeep Singh, brother of the complainant and he was convicted. On 03.06.2016, at 6.30 PM, when Karamjit Singh along with his uncle Ranjit Singh went to buy a medicine from bus stand in their car and when they were returning to the village, then Kuldeep Singh, Malkit Singh and Pardeep Singh were found standing by parking their motorcycle on the road and signalled the car to stop. Due to fear, Karamjit Singh did not stop the car, which hit the motorcycle and

ultimately came to halt. Pardeep Singh fired from his pistol 12 calibre. When Karamjit Singh was coming out from the car, pellets hit on his back. Whereupon, Karamjit Singh also took his gun from the car and fired back. Two shots hit Malkit Singh. Pardeep Singh and Malkit Singh ran away. Karamjit Singh also ran away from the spot. Brother of the petitioner started the car, after putting water in its radiator and came back home. Karamjit Singh further alleged that Kuldeep Singh, Malkit Singh and Pardeep Singh sons of Kashmir Singh fired upon him with an intention to kill him. Malkit Singh and Kuldeep Singh came on leave from jail and they abused Karamjit Singh and also gave threats of killing by saying that they will treat them at par with Gurinder Singh, who was murdered by them.

In the version given by Karamjit Singh in the complaint, he has pleaded that he fired two shots which hit Malkit Singh and Malkit Singh died on account of those shots. Complainant Pardeep Singh has not disclosed the factum of causing injuries with fire arm on the person of Karamjit Singh in the same occurrence.

In the FIR, petitioner has been named with a small weapon in his hand. Nomenclature of the weapon has not been disclosed, nor the same has been recovered from him. No injury has been attributed to the petitioner.

Learned counsel for the petitioner further submitted

that the petitioner is in custody for the last 02 years 04 months. The Police did not record cross-version at the instance of Karamjit Singh, who had received injuries falling under Section 307 IPC.

Out of total 22 prosecution witnesses, only Pardeep Singh has been examined so far.

Co-accused namely Bikramjit Singh (juvenile) has been granted bail besides finding one of the co-accused to be innocent.

Per contra, learned State counsel submitted that the weapon used by Ranjit Singh was infact belonging to the petitioner. Petitioner has facilitated Ranjit Singh to fire from his licensed weapon, even though no injury has been attributed to the petitioner.

Learned counsel for the petitioner has refuted the arguments on the ground that the petitioner and his uncle are having joint family. Licensed weapon belonging to the petitioner was in the house and was used by his uncle. At the most, complicity of the petitioner is in respect of Arms Act. The angle of criminal conspiracy would be tested by the trial Court on the basis of quality evidence to be led by the prosecution.

As of now, there are bleak chances of progress of the criminal trial.

Petitioner is in custody for the last 02 years 04 months.

Taking into consideration the totality of facts and circumstances of the case and also in view of pandemic COVID-19, I deem it appropriate to enlarge the petitioner on regular bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of trial Court/concerned Duty Magistrate.

Nothing expressed hereinabove would be construed to be an opinion on the merits of the case.

24.07.2020

Jyoti Sharma

(RAJ MOHAN SINGH)

JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No