

CRM-M-18635-2020

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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DATE OF DECISION: JULY 31, 2020

PUSHPENDER

...PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. VISHWAJEET SINGH, ADVOCATE FOR THE PETITIONER.
MR. SUKHDEEP SINGH PARMAR, DAG, HARYANA.

MANOJ BAJAJ, J.(ORAL)

Petitioner Pushpender has filed this petition under Section 439 Cr.P.C. for grant of regular bail pending trial in case FIR No.224 dated 3.8.2019, under Section 302, 34 IPC (Section 120-B IPC added later on) and Section 25 of Arms Act, Police Station Farrukh Nagar, District Gurugram. The petitioner is in custody since his arrest on 6.8.2019.

The FIR was registered on the statement of Sunder Lal wherein it was alleged that he had two sons, the elder one, namely, Prateek who was working at Maruti, whereas the younger one, namely, Yatin used to sell milk. On 2.8.2019, at about 5.45 p.m. when Yatin was going from Joniyawas to Garhi Harsaru for selling milk and reached in front of petrol pump near Jhankar School, then the unknown assailants riding on a motorcycle shot him. When he called Yatin on his mobile, then an unknown boy picked up the same and told that Yatin had been shot, who was being taken to Rockland Hospital at Manesar for admission. On getting this information,

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he reached Rockland Hospital where the Doctor declared him dead. On these broad allegations, the present FIR was registered.

Learned counsel for the petitioner contends that the complainant got the FIR lodged in respect of murder of his son, namely, Yatin on the basis of hear-say evidence and no person was named as an accused. He submits that subsequently, the petitioner named eight persons in the alleged crime including the petitioner. The attention of the Court is invited to the statement of the complainant before the Court as PW1 wherein he has not identified some of the accused. It is pointed out that the other witnesses are the Police officials and therefore, further custody of the petitioner may not be necessary, who has been indicted only on the basis of criminal conspiracy. He prays that the petitioner be released on regular bail during the pendency of the trial.

The prayer is opposed by learned counsel for the State assisted by ASI Jaipal Singh on the ground that the offence is serious, however, it is not disputed that the complainant has been examined before the trial Court and 19 prosecution witnesses still remain to be examined. He has submitted that the gun shot which caused the death of the victim was attributed to the other co-accused. According to him, the plan to execute the crime was made at the house of co-accused Bhupender and the petitioner was also involved in the crime.

After hearing the learned counsel for the parties this Court is of the opinion that the investigation of the case is complete, but trial of the case is likely to consume considerable time in the wake of outbreak of

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global pandemic, namely, COVID-19 in the region as certain restrictions have been imposed by State Government and District Administration in order to curb its spread, therefore, further custody of the petitioner may not be justified. The petitioner is presently confined in judicial custody and is not required for any useful purpose. Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail in the above case, subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court concerned.

The petition is allowed.

July 31, 2020
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No

Whether Speaking/Reasoned : Yes/No