

CRM-M-21842-2020

IN THE HIGH COURT OF PUNJAB AND HARAYANA AT CHANDIGARH

208 (PROCEEDINGS THROUGH V.C.)

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CRM-19669-2020

Date of decision: 18.08.2020

GULFAM

...PETITIONER

V/S

STATE OF HARYANA

..RESPONDENT

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. K.D.S.Hooda, Advocate,
for the petitioner.

Ms. Tanisha Peshawaria, DAG, Haryana,
for the State.

AUGUSTINE GEORGE MASIH, J. (ORAL)

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Application is allowed subject to just exceptions. Confessional Statements as Annexures P-3 to P-5 are taken on record and filing of certified copies of the same is dispensed with.

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Prayer in this petition is for grant of regular bail to the petitioner in FIR No. 217, dated 23.06.2018, under Sections 302, 34 IPC and Sections 25 of Arms Act and Section 120-B IPC (added later on), registered at Police Station Tauru, District Nuh.

It is the contention of the learned counsel for the petitioner that

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the case of the prosecution is that the complainant came to know about his brother having died because of a gunshot injury and it is on that basis that they had gone to the spot to recover his body. He, in this regard, has referred to the statement recorded of Tajar son of Nawab, Annexure P-4. He, on this basis, contends that the complainant has relied upon the statement of Tajar to contend that the petitioner had fired a shot at the deceased which led to his death whereas even the prosecution case does not, after the presentation of the challan, reflect the same. There being no eye witness cited by the prosecution with no recovery effected from the petitioner and the petitioner being in custody since 04.11.2019 deserves the concession of bail especially when no witness has been examined till date.

On the other hand, learned counsel for the State submits that the petitioner does not deserve the concession of bail as with a great difficulty, he was arrested after a period of four months. There is another FIR also registered against the petitioner. She, however, could not dispute the factual aspect, as pointed out by the counsel for the petitioner.

Having considered the submissions made by the counsel for the parties and keeping in view the prosecution case, according to which, it was not the petitioner who had fired the shot at the deceased leading to his death nor has any recovery been effected from him with no witness examined and the petitioner being in custody for more than nine months with the trial not likely to conclude in near future, the present application is allowed.

Petitioner is directed to be released on bail on his furnishing bail/surety bonds to the satisfaction of the Trial Court/Chief Judicial Magistrate/Duty Magistrate, Nuh.

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Any observation made herein above shall have no bearing on
the merits of the case during trial in any manner.

August 18, 2020
pj

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable : Yes/No