

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

CRM-M-30894-2020

DECIDED ON: 27th NOVEMBER, 2020

TINKU @ BHATABHAT

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

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

Ms. Safia Gupta, AAG, Haryana.

AVNEESH JHINGAN, J (ORAL)

The matter is taken up for hearing through video conference due to COVID-19 situation.

CRM No. 29145 of 2020

This is an application for placing on record the copy of statement of complainant as Annexure A-1.

Application is allowed, as prayed for. Statement of the complainant is taken on record.

Main case

Regular bail is sought in case FIR No. 60, dated 4th March, 2018, under Sections 302, 34 of the Indian Penal Code, 1860 (Sections 216, 120-B of IPC added later on) and Section 25 of Arms Act, 1959 (Sections 54 and 59 of Arms Act were omitted) registered at Police Station Sector 37, District Gurugram.

The FIR was registered at the instance of Ram Avtar wherein,

it was alleged that he alongwith his brother, aunt and niece were travelling in a Fortuner car bearing registration No. HR-26-BV-5151. The vehicle was being driven by Parvesh. On reaching truck union Mohammadpur Jhandsa Office one white colour Bolero came parallel to their vehicle and Giriraj occupant of the Bolero fired a shot upon Parvesh which hit on his head. There was a driver and two other persons in the said vehicle. Victim died as a result of the injury. The motive attributed that there was an old rivalry, as in 2003 Giriraj and others had murdered Krishan Kumar uncle of the complainant and the said accused were convicted.

Learned counsel for the petitioner submits that the only allegation against the petitioner is that he was an occupant of the Bolero, neither he was driver nor any injury attributed to him. It is submitted that the gun shot was fired by Giriraj. The contention is that motive attributed is with regard to animosity of Giriraj. There is no evidence against the petitioner to connect him with the previous incident of 2003. It is argued that the petitioner is behind the bars since 24th April 2018. The charges were framed on 5th August, 2019, the trial has not proceeded much and is likely to take substantial time. Learned counsel for the petitioner relies upon the order dated 12th September, 2019 passed in CRM-M-32665 of 2019 passed by this Court whereby the co-accused Jagbir was granted bail.

Learned State counsel submits that the petitioner was an occupant of the Bolero car. There is a recovery of three empty cartridges. She further contended that there is no parity between Jagbir and the petitioner for grant of bail.

Considering the custody period of the petitioner and the fact that the trial is likely to take substantial time, moreover, prime-facie when

there is no role attributed to the petitioner, it would not be appropriate to deprive the petitioner of his personal liberty any further.

Without expressing any opinion on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court.

27th November, 2020
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(AVNEESH JHINGAN)
JUDGE

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