

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

**CRM-M-34138-2019 (O&M)
Date of decision : 09.11.2020.**

Rahul

.....Petitioner

Vs.

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Hemant Bassi, Advocate, for the petitioner.

Mr. Anant Kataria, DAG, Haryana.

ALKA SARIN, J. (ORAL)

Heard through video conferencing.

The present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.769 dated 05.08.2018 under Sections 302, 452, 396, 506, 147, 148, 149, 457, 120-B of the Indian Penal Code, 1860 and Section 25 of the Arms Act, 1959 registered at Police Station Sadar Hisar, District Hisar.

Learned counsel for the petitioner has contended that the petitioner has not been named in the FIR and that his name figured for the first time in the supplementary statement of the eye-witness. It is further the contention of the learned counsel for the petitioner that the entire story has been changed by the eye-witness in her supplementary statement. He has further contended that the change in the statement of the eye-witness clearly goes to show that she was neither an eye-witness to the incident and nor is a trustworthy witness.

The status report has been filed on behalf of the State by way of affidavit of Joginder Sharma, HPS, Deputy Superintendent of Police, Law and Order, Hisar wherein it has been stated that during the course of investigation the name of the petitioner was disclosed by the complainant on the basis of suspicion in a supplementary statement. It has further been stated in the status report that incriminating evidence and role of the petitioner came about during the course of the investigation to the effect that

the petitioner was among the two other persons present at the site of the incident and that the petitioner had tried to fire a gun-shot at Balbir but the same was missed. Thereafter, Narinder alias Bhanu had fired the gun-shot which hit the forehead of the deceased. The pistol, which was used by Narinder alias Bhanu to fire the shot at the deceased is alleged to have been given by the petitioner to Narinder alias Bhanu. It has further been stated that the petitioner has been involved in the conspiracy of murder along with the co-accused.

I have heard learned counsel for the parties.

The allegations in the FIR are that the complainant went to his sister Krishna's house where Balbir Singh (deceased) was already present. At about 10 a.m. the complainant's nephew Narender @ Bhanu along with Ashwani, Tony, Leelawati and two other boys came to the house of Kartar Singh. Leelawati, Narender, Tony and two others boys said that in case Balbir does not transfer his house in their name they would finish him. Narender removed the pistol from his pocket shot on Balbir's (deceased) forehead. Thereafter, Ashwani, Tony and the two other boys also started firing shots. The complainant and his sister Krishna saved their lives by going into the room. Ashwani and Tony fired shots at Kartar Singh.

In the FIR two unknown boys have been clearly mentioned. Later during investigation and on the basis of the supplementary statement of the complainant and the eye witness the role of the petitioner came to the fore. As per the status report the petitioner was present at the site of the occurrence and tried to fire a gun-shot at Balbir Singh, however, the same missed and thereafter the pistol which was used by him earlier to try to fire a shot was handed over to Narinder alias Bhanu which was then used by Narinder alias Bhanu to fire a shot at Balbir Singh on his forehead, which ultimately resulted in the death of Balbir Singh.

The arguments raised by learned counsel for the petitioner that the name of the petitioner has been introduced for the first time in the supplementary statement of the eye-witness cannot be looked into at this stage and would be a matter of trial.

Keeping in view the gravity and the seriousness of offence, I do not find this to be a fit case for grant of regular bail to the petitioner.

Dismissed.

It is, however, made clear that any observation made herein shall not be taken as an expression of opinion on the merits of the case.

November 09, 2020

(ALKA SARIN)
JUDGE

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NOTE:

Whether speaking/non-speaking: Yes/No

Whether reportable: Yes/No