

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-52334-2019 (O&M)

DATE OF DECISION: NOVEMBER 10, 2020

ASHOK KUMAR KHOSLA

...PETITIONER

VERSUS

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. RISHABH GUPTA, ADVOCATE
FOR THE PETITIONER.

MANOJ BAJAJ, J.(ORAL)

CRM-23371-2020

Notice of the application.

Mr. Sandeep Singh Deol, DAG, Punjab accepts notice on behalf
of the State and does not oppose the prayer made in the application.

For the reasons mentioned in the application, the date of
hearing is preponed to today.

Application stands disposed off.

Main Case

Petitioner has filed this petition under Section 439 Cr.P.C. for
grant of regular bail pending trial in case FIR No.27 dated 11.2.2018, under
Section 304 IPC and Section 27 & 30 of Arms Act, 1959 (alternative charge
under Section 302 IPC framed vide order dated 5.10.2018), Police Station
City Hoshiarpur, District Hoshiarpur. The petitioner is in custody since his
arrest on 11.2.2018.

The allegations contained in the FIR as noticed by the Sessions

Judge, Hoshiarpur in his order dated 27.4.2018, are as under:-

“The prosecution case in nutshell is that on 11.2.2018 at about 11.30 PM, due to the marriage of daughter of Ashok Kumar Khosla (accused/appellant), Disk Jokey (DJ) was playing songs at loud volume. His neighbourer Charanjit asked Ashok Kumar Khosla to slow down the volume, as his daughter Sakshi was preparing for her MBA examination. At that time Sakshi and her brother Rishab were standing on the roof of their house. Ashok Kumar Khosla (accused/applicant) and his friend Ashok Kumar Sethi felt bad of it and they started firing from thier revolver and double barrel gun respectively. In the meantime, Ashok Kumar Khosla (accused/applicant), then fired a shot towards Sakshi which struck her on her forehead. She was shifted to Civil Hospital Hoshiarpur where she was declared brought dead.”

Learned counsel for the petitioner contends that as per the Post Mortem Report, no bullet injury was received by the deceased, nor any bullet was recovered from the body of the deceased. He has contended that the injury which caused the death has been opined to be by a double barrel gun or single barrel gun, whereas, it is the case of the prosecution that the petitioner was holding a pistol. He contends that the allegations levelled and the post mortem report on record are contradictory to each other and thus, the petitioner cannot be made to suffer behind bars due to the act of someone else. He submits that the petitioner is a 61 years old man and as the investigation is complete and the challan stands filed, therefore, no useful purpose would be served by putting the petitioner behind bars.

Learned State counsel assisted by ASI Ravinder Singh has opposed the aforesaid prayer on the ground that the petitioner has not named any other person involved in the incident and a specific allegation

has been made against the petitioner that he was the one who was holding the pistol, pointed the pistol and fired the shots.

A careful reading of the statements of complainant-PW1 Charanjit Singh and PW-2 Nisha Arora shows that both of them made a categoric and firm statement that it was the petitioner who was holding the pistol and on an objection raised by the complainant on the loud voice being played by the DJ infuriated the petitioner and he in a fit of rage fired shots, which hit the daughter of the complainant who after receiving the same died. In the post mortem report also, it has been opined that '*a lacerated wound 4x3cm with inverted margins (and irregular margins) present on the middle of forehead*' and the cause of death has been opined as '*cerebral compression due to intracranial haemorrhage due to the injury to the head as well as injury to vital organ brain which is sufficient to cause death in ordinary course of nature*'.

A young life was lost because of the act of the petitioner. It has been pleaded in the petition that the daughter of the petitioner as well as the daughter of the complainant were best friends and there were cordial relations between both the families, therefore, there was no reason for the complainant to name the petitioner falsely.

Keeping in view the above, I do not find any ground to grant regular bail to the petitioner.

Petition is dismissed.

November 10, 2020
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No
Whether Speaking/Reasoned : Yes/No