

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****CRM-M-2876-2021 (O&M)**
Date of Decision: 05.02.2021

Shivtaj

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Parveen Sharma, Advocate, for the petitioner.

Mr. Ramesh K. Ambavta, AAG, Haryana,
assisted by ASI Naresh.*(proceedings conducted through video conferencing)***GURVINDER SINGH GILL, J. (Oral)**

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered vide FIR No.259, dated 10.10.2017, Police Station Barauda, District Sonipat, under Sections 302 IPC, 120-B (added lateron), 34 IPC and Section 25 of Arms Act.
2. The FIR was registered at the instance of Dhanraj, wherein he has stated that they are 5 brothers namely Rambhaji, Baljeet, Jai Singh, Dhanraj (complainant himself) and Dharam Singh. It is alleged that on the day of occurrence i.e. on 10.10.2017 when he along with his nephew Rakesh were going on motorcycle, they were waylaid by three young boys, who came there on motorcycle and two of them started beating Rakesh while one of them held him aside and threatened that he would shoot him in case he made any noise. It is

further alleged that the other two boys fired at his nephew Rakesh killing him at the spot. While leaving, the said boys said that they had taken revenge of Satbir's death.

3. It has been submitted by the learned counsel for the petitioner that he is nowhere named in the FIR and has been nominated as an accused subsequently on the basis of disclosure statement made by co-accused and also the supplementary statement of the complainant. It has further been submitted that the identically situated co-accused namely Naveen @ Seetu, Sombir @ Sonu, Sumit and Ashish have already been granted bail by this Court.
4. Opposing the petition, learned State counsel has submitted that apart from the fact that the complainant himself in his supplementary statement has named the petitioner, the petitioner was also nominated as an accused by co-accused Pawan @ Pona and Nikhil. It has further been submitted that the vehicle used in the occurrence belongs to the petitioner and that he was part of the conspiracy hatched for eliminating the deceased. Learned State counsel has, however, informed that the petitioner was involved earlier in one more case in the year 2001, which the learned counsel for the petitioner has clarified that the petitioner stands acquitted in the said case. The learned State counsel has informed that the petitioner as on date has been behind bars since the last 3 years and 1 month.
5. I have considered rival submissions addressed before this Court.
6. Keeping in view the fact that there is no direct allegation against the petitioner in the FIR and it is not even the case of the

prosecution that it is the petitioner, who had fired the gun shot on the deceased and while considering the fact that the petitioner as on date has been behind bars since the last 3 years and 1 month and till date not even a single PW has been examined, further detention of the petitioner will not serve any useful purpose as the conclusion of trial will take some time. The petition, as such, is accepted and the petitioner is ordered to be released on regular bail on their furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

05.02.2021
Vimal

(GURVINDER SINGH GILL)
JUDGE

Whether speaking/reasoned: **Yes/No**
Whether reportable: **Yes/No**