

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-13661-2021 (O&M)
Date of Decision:-31.3.2021

Vikash Yadav ... Petitioner

Versus

State of Haryana ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Vinod Ghai, Senior Advocate with
Ms. Kanika Ahuja, Advocate;
Mr. Edward Augustine George, Advocate and
Mr. Mukesh Mehra, Advocate for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana,
assisted by ASI Vijay Kumar.

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.35 dated 27.1.2019 at Police Station Badshahpur, Gurugram under Sections 147, 148, 149, 323 and 302 of Indian Penal Code, wherein offences under Sections 506, 120-B IPC and Sections 25(1B)a, 25(1B)c, 25(1B)d, 25(1C), and 27-1 of Arms Act were added later on.
2. The FIR was registered at the instance of Jaswant Singh (brother of deceased Harpal), wherein it has been alleged that on 26.1.2019, he was informed by

his brother Harpal's daughter namely Anu that when she alongwith her father Harpal were returning back from their plot, then Rahul, Naresh, Lakshmi Narayan, Narender, Sanju and also son of Chini Yadav came there on two motorcycles and started quarreling with them and shot at her father. Dinesh and Sunil, who were passing by, took Harpal to hospital but he succumbed to his injuries.

3. Learned counsel for the petitioner has submitted that the petitioner is nowhere named in the FIR and came to be nominated much later during the course of investigation, wherein also the only allegations levelled against him that he had conspired with the co-accused for murder of Harpal. It has further been submitted that infact the case of the prosecution has been taking various turns and infact after lodging of the FIR by brother of deceased, statements of both the daughters of the deceased were recorded, wherein they alleged that it is infact the complainant Jaswant Singh, who had got their father murdered on account of some property dispute.
4. Learned counsel for the petitioner has further submitted that the falsity of the case of prosecution is also evident from the fact that at one stage statement of one Satbir was recorded under Section 161 Cr.P.C., wherein he stated that the assailant was Naresh and that he had seen him and identified him and while the said statement was recorded on 29.1.2020 but subsequently he made another statement on 18.2.2020, wherein he took a volte-face and stated that he did not recognise the assailant as his face was covered. Learned counsel for the petitioner has thus submitted that it is evidently a case where the daughters of the deceased had no clue about the real assailant and that different versions had been put forth in the instant case.

5. Opposing the petition, learned State counsel has submitted that during the course of investigation it had surfaced that the deceased had infact been killed by his elder son in-law namely Naresh i.e. by the husband of Suman. It has been submitted that the other daughter of the deceased namely Anjali @ Anu in her statement recorded on 1.7.2020 has specifically stated that 20 days earlier she had overheard Naresh talking to Rahul and Jaivir, wherein he admitted that he had got his father-in-law killed.
6. It is further the case of prosecution that after arrest of co-accused Naresh, he suffered a disclosure statement during interrogation that the petitioner Vikas was also associated with them and that he had conducted a recce of the place of occrence in his Accent Car on 4-5.1.2019 i.e. a few days prior to the occurrence. It has thus been submitted by the learned State counsel that the complicity of the petitioner is clearly evident and that, as such, he does not deserve the concession of bail. The learned State counsel has, however, informed that the petitioner has been in custody since the last about 9 months and that he had earlier been involved in two FIRs and that while one of the FIR stands cancelled, the trial in respect of the other FIR, which is registered under Arms Act, is still pending. Learned State counsel has further submitted that Naresh in his disclosure statement also disclosed that after the occurrence the assailants made good their escape in the car of the petitioner, which was subsequently recovered at the instance of the petitioner.
7. I have considered rival submissions addressed before this Court.
8. It is not in dispute that the petitioner is not alleged to have fired at the deceased and infact he is not even stated to be present when the incident had taken place. The petitioner came to be involved much later and that too on

the basis of a disclosure statement made by co-accused Naresh, the veracity and admissibility of which would be debatable. Even as per the said disclosure statement, the only role attributed to the petitioner is that he had conducted a recce of the place of occurrence a few days prior to the murder of the deceased. The petitioner, in any case, has been behind bars since the last about 9 months. In the instant case, the trial is yet to commence inasmuch as even the charges have not been framed. Certainly the conclusion of trial will take substantial time inasmuch as 43 PWs have been cited. In these circumstances, bearing in mind the role of the petitioner and the nature of evidence collected against him and also the bleak probability of early conclusion of trial, further detention of the petitioner will not serve any useful purpose. The petition, as such, is accepted and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

31.3.2021

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No