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

**CRM-M-15439-2021 (O&M)
Date of Decision: 29.10.2021**

Nikhil @ Tinku

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. Sunil Sihag, Advocate,
for the petitioner.

Mr. Anmol Malik, DAG, Haryana.

Mr. Kamaldeep Singh Sidhu, Advocate,
for the complainant.

SUDIP AHLUWALIA, J. (ORAL)

This is a petition filed on behalf of the petitioner for regular bail under Section 439 Cr.P.C. in case FIR No.53 dated 18.01.2019, under Sections 302, 34 of the IPC and Section 25 of Arms Act, 1959, registered at Police Station Model Town, Panipat.

2. At the outset it may be first noted that the word “transpired” as seen in the last line of para-2 on Page-1 of the last order dated 13th October 2021 is on account of a typographical error. It may be substituted with the word “accompanied”.

3. Heard, Ld. Counsel for both the parties.

4. Considered. The petitioner by now has already undergone imprisonment for more than two years 10 months since 23rd January 2019.

The only allegation against him in the original FIR is that he along with two

other persons namely Mitta and Bittu Langra had some verbal altercation with the victim Nitin some days before the date of actual occurrence. On such date of actual occurrence/offence the victim Nitin was allegedly taken away by one Neeraj @ Chautala from his house when the said Neeraj was accompanied by some more persons sitting in a white coloured car, who fired indiscriminately at the said deceased. There was no mention whatsoever about the petitioner as being one of those persons participating in the actual crime on the relevant date. The other two persons namely Mitta and Bittu Langra with whom the deceased had allegedly had an altercation some days earlier were exonerated after having been found innocent during investigation.

5. Ld. Counsel for the petitioner further draws attention of the Court to the fact that while some recovery of fire-arm was shown to have been recovered from the petitioner, but according to the Ballistic Expert's Report the bullets/cartridges either extracted from body of the deceased, or recovered from all around the place of occurrence had no connection with the fire-arm shown as recovered from the petitioner, which fact has already been noted in the previous order passed on 3rd May 2021. Furthermore, the eyewitness of the alleged occurrence had turned hostile in the Trial Court and did not give any statement to support the prosecution case.

6. This Court, thereafter, still denied bail to the petitioner with a view to have the statement of the complainant recorded in the Ld. Trial Court. But the same could not be done even till now, since one more accused namely Akash @ Akku was in the interregnum produced in custody before the Trial Court, after which the trial is now likely to be taken up *de novo* which would, therefore, take considerable time till the proceedings

are brought at par with the accused person already charged earlier, with the charges to be framed against subsequently arrested co-accused Akash @ Akku.

7. On the last date, Ld. State Counsel had still sought further adjournment to draw attention of the Court to the specific material, if any collected against the petitioner, to explain how he could be involved in the murder of the deceased victim. But today, Ld. State Counsel submits that apart from the disclosure statements of the co-accused persons (having little evidentiary value) there is no other evidence available to connect the petitioner with the alleged occurrence, in which the deceased victim was murdered.

8. In such circumstances, considering the long detention undergone by the petitioner and also the fact that he stands on a similar footing with Mittu and Bittu Langra, who had already been exonerated after being found innocent during investigation, without commenting any further on merits of the present case as a whole and considering the fact that further detention of the petitioner for an indefinite period at this stage would not serve any useful purpose, his prayer for regular bail is allowed and he is ordered to be released on bail, subject to appropriate terms and conditions to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.

9. Disposed off.

29.10.2021
manju

(SUDIP AHLUWALIA)
JUDGE

1. Whether speaking/reasoned: Yes/No

2. Whether reportable: Yes/No