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

(Through video-conferencing)

**CRM-M No.15186 of 2021
Date of Decision: 27.08.2021**

DEVENDER SINGH @ GAGGU

.....Petitioner

Vs

STATE OF HARYANA

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Arpandeeep Narula, Advocate
for the petitioner.

Mr. Anant Kataria, D.A.G., Haryana.

Mr. Gurdarshan Sidhu, Advocate
for the complainant.

RAJ MOHAN SINGH, J.(Oral)

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.86 dated 14.04.2020, registered under Sections 302/120-B/34 IPC and Section 25 of Arms Act, at Police Station Kalanwali, District Sirsa, Haryana.

FIR was registered at the instance of complainant- Harpal Singh with the allegations that he and his brother Gurpal Singh were coming towards their house on a tractor from the farm house. When they reached near Kalanwali turn, Gurpal

singh alighted from the tractor and was going to buy some household articles from a shop. Immediately a motorcycle and vehicle came from behind and stopped there. Sandeep, Lakhwinder Singh, Gagandeep and Lakhbir Singh along with 2-3 other persons were present in the vehicles. Gagandeep was holding a pistol in his hand. Gagandeep opened fire directly on Gurpal singh hitting him on the left side of the stomach, Gurpal singh fell down. On raising alarm, the complainant and his elder uncle son Sukhpal Singh arranged a vehicle and took Gurpal Singh to the hospital where doctor declared him dead.

Perusal of FIR would show that Gagandeep was the main accused who opened fire on Gurpal Singh resulting in his death. Supplementary statement of the complainant was recorded on the same day i.e. 14.04.2020 in which he changed the version to the extend of attributing gun shot injury to Lakhbir Singh @ Lakha. According to his supplementary, statement petitioner raised lalkara and Lakhbir Singh @ Lakha directly fired a shot on Gurpal singh.

Learned counsel for the petitioner submits that the case of the petitioner is on better footing than the case of co-accused Sandeep Singh, who has been granted regular bail by this Court vide order of even date passed in CRM-M No.11355 of 2021. Petitioner has not participated in the occurrence.

Learned counsel for the petitioner further submits that Gagandeep Singh has been granted bail by the High Court vide order dated 15.01.2021 passed in CRM-M No.35957 of 2020. Lakhbir Singh @ Lakha has been granted bail by the Principal Magistrate, Juvenile Justice Board vide order dated 07.07.2020.

Learned counsel for the petitioner also relies upon order dated 18.03.2021 passed in CRM-M No.9141 of 2021 granting bail to Lakhwinder Singh @ Lakhi. Challan has been presented and charges have been framed. No prosecution witness has been examined so far.

Learned State counsel however opposed the bail on the ground that the petitioner is habitual offender and he is involved in other cases as well.

Learned counsel for the petitioner again submits that petitioner was already in custody in FIR No.41 dated 17.02.2020 under Section 307 IPC, P.S. Kalanwali, therefore, no overt act can be presumed against the petitioner in the present case. Petitioner would seek his legal remedy in the aforesaid FIR in accordance with law.

For the reasons recorded hereinabove, I deem it appropriate to enlarge the petitioner on regular bail, without advertent anything on merits of the case.

In view of above, petition is allowed. Petitioner is ordered to be released on bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate. However, this order shall be operated only after grant of regular bail to the petitioner in FIR No.41 dated 17.02.2020 registered under Section 307 IPC at P.S. Kalanwali, District Sirsa.

Nothing expressed hereinabove would be construed to be an expression of opinion on merits of the case.

August 27, 2021	(RAJ MOHAN SINGH)
<i>Atik</i>	JUDGE
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No