

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

CRM-M-25745-2021 (O&M)

Date of Decision:- 12.10.2021

Sikander @ Rohit

.... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Ms. Geeta Singhwal, Advocate, for the petitioner.

Mr. Gurmeet Singh, AAG, Haryana,
assisted by ASI Sunil Kumar.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered against him vide FIR No.221, dated 22.3.2017, Police Station Sadar, District Jhajjar, under Sections 332, 353, 307, 34, 186, 302, 120-B IPC and Sections 25, 54, 59 of Arms Act.
2. The FIR in question was lodged on the basis of statement made by EASI Ram Chander wherein it has been alleged that on the day of occurrence i.e. on 22.3.2017 when he along with other police officials was conducting the prisoner Rajiv from the Courts back to

Ambala Jail, two persons fired at Rajiv as a result of which said prisoner Rajiv succumbed to the fire-arm injuries. It is stated in the FIR that the complainant could recognize the said assailants in case they are brought before him. It is further the case of prosecution that on the same day itself while the aforesaid two persons were making good their escape and were running, they came across two police officials who confronted them and the said two persons fired at the police officials also, but were overpowered by the officials of the police. Later, the complainant in the instant case identified the said persons to be the assailants who had killed Rajiv.

3. Learned counsel for the petitioner submits that he has falsely been implicated in the instant case and is nowhere named in the FIR. It has further been submitted that after the arrest of the petitioner and the co-accused, the pistols allegedly recovered from them were sent for examination to FSL and as per the report, the shot which had been fired at deceased Rajiv had been fired from the pistol recovered from co-accused Rohit @ Deepak.
4. Opposing the petition, the learned State counsel has submitted that although the petitioner is not named in the FIR, but the very fact that he came to be arrested shortly after the present occurrence and pistols were recovered from the petitioner as well as from co-accused and as per the FSL report the shot which was fired at Rajiv leading to his death had been fired from the pistol of the co-accused, the complicity of the petitioner is clearly evident. Learned State counsel has however, informed that the petitioner as on date has been behind bars

since the last more than 4 years and 6 months and that he is not involved in any other case except FIR No. 222 dated 22.3.2017.

5. I have considered rival submissions addressed before this Court.
6. It is not in dispute that the petitioner is not named in the FIR. However, the fact that he came to be arrested while he along with his co-accused were trying to run away from the spot and were confronted by some other police officials and was later identified by the complainant of the present case would *prima facie* show involvement of the petitioner. However, this Court cannot lose sight of the fact that the petitioner has been behind bars for a substantial period of 4 years and 6 months and otherwise has a clean record. Conclusion of trial is likely to take time as only 8 out of the cited 44 PWs have been examined. In these circumstances, 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 regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

12.10.2021

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**(GURVINDER SINGH GILL)
JUDGE**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No