

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

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**CRM-M-31521-2021 (O&M)
Date of Decision: 13.12.2021**

Ashish @ Khatri

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. S.S.Duhan, Advocate,
for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana,
assisted by SI Manoj 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.449 dated 10.11.2020 at Police Station Sadar Rohtak, District Rohtak, under Section 302 IPC (Sections 120-B & 34 IPC added later on).
2. The FIR in question was lodged at the instance of Joginder, wherein it is alleged that his father, namely, Azad used to sleep in a plot where their buffaloes were tethered. On the day of occurrence i.e. 10.11.2020 at about 5:00 Am, when he went to serve tea to his father Azad, his father was found dead and the dead body, which was lying on a cot, was found to be smeared with blood. It is further stated therein that there were injury marks on neck, which apparently had been caused with a *jaily* and there were also injury marks of *darati* on the legs and that the said *jaily* and *darati* were also found lying there smeared with blood. The

complainant alleged that some unknown persons had killed his father during night.

3. On the next day i.e. 11.11.2020, the complainant's brother Amir Singh got his statement recorded, wherein he alleged that on the night intervening 09/10.11.2020, when he was proceeding to his house after attending to his personal work, he saw Shankar alongwith one more boy going from the street adjoining his house and later he came to know about the name of the boy as Ashish. He stated that he and other members of his family had made enquiries and found that since his father Azad Singh's name figured in one murder case about 37 years back i.e. murder of Ram Kishan, grand-father of Shankar, it was on account of the said grudge, Shankar and Ashish alongwith their companions and other members of the family, namely, Sahil, Parvesh, Ankit @ Rahul @ Lovely, Aashish @ Khatri, Rohit @ Baba, Suresh had murdered his father.
4. Learned counsel for the petitioner has submitted that it is a case of blind murder, wherein the petitioner was nowhere named in the FIR and came to be nominated on the basis of statement of complainant's brother recorded one day after lodging of FIR. It has been submitted that the motive, as attributed in the statement of complainant's brother, does not appeal to reason inasmuch as the involvement of the deceased in some murder case is stated to have taken place about 37 years back and at that time Shankar had not even been born. It has been submitted that Amir Singh in his statement recorded on 11.11.2020 tried to settle some scores by naming a large number of persons and that in the absence of any

convincing evidence, the petitioner cannot be connected with the alleged murder.

5. Opposing the petition, learned State counsel has submitted that the name of the petitioner specifically figures in the statement of the complainant's brother recorded on the very next day of lodging of FIR and that the petitioner stands involved in 5 other cases registered under the Arms Act and in these circumstances, he does not deserve the concession of bail. It has, however, been informed that the petitioner as on date has been behind bars since the last more than 1 year. It has also been informed that although charges have been framed, but none out of cited 20 PWs has been examined so far.
6. I have considered rival submissions addressed before this Court.
7. It is not in dispute that it is a case of blind murder, wherein none had witnessed the alleged murder. The prosecution mainly relies on circumstantial evidence, which is mainly in the nature of 'last seen' evidence, as would be evident from the statement of Amir Singh (Annexure P-2) recorded on 11.11.2020. The said 'last seen' evidence in the absence of any other corroborative evidence may not be sufficient to connect the petitioner with the alleged murder. Although the petitioner is stated to be involved in 5 other cases under the Arms Act pertaining to the fire arms, but in the instant case no fire arm is stated to be used. In any case, the petitioner has been behind bars for a substantial period of more than 1 year and conclusion of trial will take some time, as not even a single PW out of cited 20 PWs has been examined till date. 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.

13.12.2021

Vimal

(GURVINDER SINGH GILL)
JUDGE

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