

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

CRM-M-32893-2021 (O&M)

Date of Decision:-18.8.2021

Sarafat alias Sonu

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Rahul Deswal, Advocate for the petitioner.

Mr. Vishal Kashyap, DAG, Haryana,
assisted by ASI Surender Singh.

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner seeks grant of regular bail in a case registered vide FIR No.278 dated 23.3.2015 at Police Station Chandni Bagh, District Panipat under Section 302 of Indian Penal Code and Sections 25/54/59 of Arms Act.
2. The FIR was lodged at the instance of Ramnik, wherein it is alleged that his brother Dheeraj was addicted to liquor, who had taken a shop on rent on Sanauli Road and used to reside in the same. At about 11-12 shops next to the shop of Dheeraj, one shop had been let out to Amit Rana and Himmat, who were selling local liquor. On 22.3.2015 at about 10:00 p.m. when he was

present at his house, Balkar and Paleram came to his house and informed him that complainant's brother Dheeraj had been shot dead. Upon receiving the said information, the complainant rushed to Dheeraj's shop, where blood was found splattered and two bottles of wine and plastic glasses were found lying there. However, Dhreeaj was not found at the shop. Thereafter, the complainant went to the liquor shop of Himmat and Amit Rana, where complainant's brother Dheeraj was found lying on a bed and was drenched in blood. A deep injury mark was found on his head from where blood was oozing and there was also bullet injury mark on the chest.

3. Learned counsel for the petitioner submits that it is a case of blind murder and that none is named in the FIR nor any suspicion was raised in the FIR regarding the assailant. It has been submitted that the petitioner has been nominated in the instant case after about 5 years of the occurrence and the prosecution mainly relies upon a disclosure statement made by petitioner himself i.e. Annexure P-5, wherein he has stated that in March 2015 he and Dheeraj had a fight over some issue in which Dheeraj had slapped him and that in order to take a revenge he alongwith his friend Parvez had planned to kill Dheeraj and that as per the plan Parvez hit Dheeraj on his head with a stick, while he fired a shot from a country made pistol .315 bore on the chest of Dheeraj.
4. Learned counsel for the petitioner submits that as per the said disclosure statement the deceased would be in a position to know and identify the assailant being Dheeraj, whereas Rajinder, who is working as a salesman at the liquor shop and Balkar, who is also working at the said liquor shop, have both stated that Dheeraj, while in injured condition, did not disclose anything

to them as regards the identity of the assailants despite having been asked to do so.

5. Learned counsel for the petitioner has also referred to the statement of PW-5 Rajinder recorded in the Court, wherein also he has categorically stated that although they had tried to ask the Dheeraj about the person, who had caused injuries to him, but he stated that he could not identify the assailants. Learned counsel has thus submitted that in the absence of any cogent and convincing evidence, the petitioner cannot be connected with the alleged murder of Dheeraj and, as such, deserves the concession of bail.
6. Opposing the petition, learned State counsel has submitted that although the petitioner came to be nominated after about 5 years of the occurrence, but it was pursuant to an information received from a secret informer, who had informed that the petitioner in an inebriated condition had confessed his guilt before him that the petitioner came to be nominated and that subsequently when the petitioner came to be arrested, he made the disclosure statement confessing his guilt. Learned State counsel has, however, informed that the petitioner as on date has been behind bars since the last about 1 year and 7 months and is not involved in any other case. Learned State counsel has further informed that as on date only 5 out of the cited 21 PWs have been examined.
7. I have considered rival submissions addressed before this Court.
8. It is a case based mainly on circumstantial evidence. Infact the prosecution relies on a disclosure statement allegedly made by the accused, which is rather a weak type of evidence unless the same is corroborated by some other cogent and convincing evidence, which has not been shown to this Court at

this stage. In any case, since the petitioner has been behind bars for a substantial period of 1 year and 7 months and is not stated to be involved in any other case, his further detention will not serve any useful purpose as conclusion of trial is likely to consume time as only 5 out of the cited 21 PWs have been examined so far. 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.

18.8.2021

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No