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

CRM-M-33700-2020

Date of Decision: 21.01.2021

Vishnu @ Patanga

.. Petitioner

Vs.

State of Haryana

..Respondent

**CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ**

Present: Mr. Deepakaran Dalal, Advocate for the petitioner.

Mr. Sukhdeep Parmar, DAG, Haryana.

...

**Manoj Bajaj, J. (Oral)**

Petitioner has filed this petition under Section 439 Cr.P.C for grant of regular bail, pending trial in case FIR No.175 dated 20.06.2018 registered under Sections 148, 149, 302, 506 and 285 IPC, 1860 and Section 25 Arms Act, 1959, at Police Station Hathin, District Palwal. The petitioner is in custody since his arrest on 21.06.2018.

The FIR was registered on the basis of complaint given by Tek Ram and the allegations as noticed by the Addl. Sessions Judge, Palwal in the order dated 24.07.2019 are as under:

*“As per the prosecution case, the complainant Tek Ram presented a complaint to the police alleging therein that on 19.06.2018, he and his brother Hari Kishan were present at the house of Hari Kishan. At around 8:30/8:45 p.m., petitioner Vishnu and his real brother Ravinder came on their respective motorcycles towards their house. Vishnu was having bullet motorcycle bearing registration No.HR52-8700 and Ravinder @ Rabhu was having Apache motorcycle bearing registration No.HR30K-2861. Both Vishnu and Ravinder were firing in the air from their illegal weapons. Co-accused Harkesh was also present on the motorcycle of Vishnu and along with them, two more youths, who were not known to them, were also present.*

*Tek Ram and Hari Ram counselled them but they started abusing Hari Kishan and all the said youths along with petitioner Vishnu and Ravinder stood at Holi Chowk near their house and started abusing them. Tek Ram and Hari Kishan went to Holi Chowk and they tried to counsel them number of times but petitioner Vishnu opened fire at Hari Krishan, which hit on the neck of Hari Kishan and later he fell down on the ground. Petitioner Vishnu and Ravinder along with their companions while leaving away from the scene opened firings from their respective weapons. Thereafter Tek Ram and his family members took Hari Kishan to Government Hospital, Palwal, where he succumbed due to gunshot injuries.”*

Learned counsel for the petitioner contends that as per the FIR, the petitioner along with his co-accused fired at the brother of the complainant, namely, Hari Kishan, who died of the single gunshot injury. He has invited the attention of the Court to the testimony of the complainant-Tek Ram recorded on 23.04.2019 (Annexure P-2) and contended that the witness stated before the Court that three accused persons, namely, Ravinder @ Rabba , Harkesh and Vishnu (petitioner) fired at his brother Hari Kishan. He has submitted that the co-accused Ravinder @ Rabba has already been released on bail vide order dated 31.05.2019 passed in CRM-M-24030-2019. He has argued that the material witnesses have been examined, but still 20 prosecution witnesses remain to be examined and the trial is likely to consume considerable time. He prays that the petitioner be released on bail.

On the other hand, learned state counsel assisted by ASI Rashid Khan, has opposed the prayer on the ground that the fatal shot was fired by the petitioner. He has contended that as per the FSL report, the weapon recovered from the petitioner was used as the bullet extracted from the dead body matched with the said weapon. He states that out of total 35

the complainant. Learned State counsel, on instructions further states that the last prosecution witness was examined on 19.11.2019 and thereafter because of the outbreak of pandemic COVID-19, the trial proceedings came to a halt.

After hearing learned counsel for the parties, this Court finds that the prosecution has already examined the material witnesses, including the complainant, but still 20 prosecution witnesses remain to be examined before the trial Court and the conclusion of trial may take considerable time. As most of the remaining witnesses are police officials and there does not appear any possibility of their being won over, therefore, this Court is of the opinion that further detention of the petitioner behind the bars, who is presently confined in judicial custody since his arrest on 21.06.2018 is not justified. It is also not disputed that the petitioner is not involved in any other case and his co-accused, namely, Ravinder @ Rabbu was extended the concession of regular bail by this Court vide order dated 31.05.2019.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail in the above case, subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate Palwal.

The petition is allowed.

21.01.2021  
*Jasmine Kaur*

**(MANOJ BAJAJ)**  
**JUDGE**

Whether speaking/reasoned  
Whether reportable

|     |    |
|-----|----|
| Yes | No |
| Yes | No |