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

**CRM-M No.34134 of 2020(O&M)  
Date of Decision: 18.03.2021**

**Rahul @ Munna**

**.....Petitioner**

**Vs**

**State of Haryana**

**.....Respondent**

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

Present:Mr. Deepanshu Matya, Advocate  
for the petitioner.

Mr. Anant Kataria, DAG, Haryana.

Mr. Sarfraz Hussain, Advocate  
for the complainant.

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**RAJ MOHAN SINGH, J.(Oral)**

The case has been taken up for hearing through video conferencing.

**CRM Nos.8071-72 of 2021**

For the reasons mentioned in the applications, the same are allowed.

Accompanying documents are taken on record subject to all just exceptions.

**Main case**

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.79 dated 26.02.2019 registered under Sections 302, 34 IPC and Section 25 of the Arms Act at Police Station Rajendra Park, District Gurugram.

Complainant Ram Avtar Tyagi got the aforesaid FIR registered with the allegations that on 25.02.2019, his younger son namely Sachin went along with Amit Dalal to attend Court proceedings at Gurugram. Sachin did not turn up thereafter, though he responded to the calls made to him at about 4:00 PM and 8:00 PM and replied that he will be reaching home very soon. On the next day, the police informed that Sachin was shot dead by someone and his dead body was kept in the hospital. Dead body of Sachin was having marks of bullet injuries on the chest. Suspicion was made against Amit Dalal and his friends.

Disclosure statements of Amit Dalal and the petitioner were recorded. On the basis of their disclosure statements co-accused Gagan @ Gaggi was nominated, but no recovery was effected from him. The allegations against Gagan @ Gaggi was that in pursuance of his disclosure statement, he got the place of occurrence demarcated.

Learned counsel for the petitioner submitted that the

alleged role of the petitioner is at par with co-accused Gagan @ Gaggu, who has already been granted regular bail by this Court vide order dated 04.09.2020 passed in CRM-M No.55456 of 2019. Learned counsel further submitted that the place of occurrence had already been demarcated. The evidence of PW-3 and PW-4 did not provide any incriminating material. PW-3 Sunita Devi tried to introduce the occurrence dated 14.02.2019 and contended that on 14.02.2019, Amit Dalal along with some other persons visited her house and asked her about whereabouts of Sachin. Amit Dalal was having revolver in his hand and he used very threatening language. The said occurrence was not disclosed by Sunita Devi to her family members till the occurrence in question. However, she identified Amit Dalal and the petitioner, who were present in Court and further submitted that those persons had visited her house on 14.02.2019 and had extended threat of killing Sachin.

As per disclosure statement of the petitioner dated 26.02.2019, his illegal arm was used by Amit Dalal and no recovery was effected from him. In second disclosure statement of the petitioner dated 27.02.2019, mobile of the deceased was recovered on the demarcation of the petitioner. Recovery of his own clothes may or may not provide any incriminating material.

Learned counsel further submitted that mobile of

Sachin was never snatched by the petitioner, nor this fact has appeared in the prosecution version. Main role is attributed to Amit Dalal. The alleged use of illegal firearm provided by the petitioner would remain debatable as the petitioner is not the licensed owner of said arm. The illegal arm can be procured by anyone at any point of time. The recovery of said arm from Amit Dalal and its connectivity with the petitioner would remain debatable. Petitioner is in custody since 26.02.2019. The trial of the case has been stalled as only 13 prosecution witnesses have been examined so far out of total 20 witnesses. This was the position even at the time of granting bail to the co-accused Gagan @ Gaggi on 04.09.2020. The bail has been declined to the petitioner owing to his involvement in number of cases, the reference of which finds mentioned in para No.4 of the order passed by the Additional Sessions Judge, Gurugram. Learned counsel also submitted that the petitioner is on bail in other cases and involvement of the petitioner in other cases would not be taken to be a ground for discarding bail in the present case in the light of observations made in **Criminal Appeal No.153 of 2020** titled **Prabhakar Tewari Vs. State of UP and another** decided on 24.01.2020.

On the other hand, learned State counsel duly assisted by learned counsel for the complainant submitted that the

petitioner is having antecedent behaviour of criminal activity. Petitioner has provided illegal weapon to Amit Dalal. Mobile of the deceased has been recovered on the basis of demarcation done by the petitioner.

The complicity of the petitioner on the basis of facts recorded hereinabove would remain debatable.

Looking to the aforesaid facts, particularly in the light of fact that the trial has not made any headway since long and the petitioner is in custody since 26.02.2019, I deem it appropriate to enlarge the petitioner on regular bail, without adverting to the merits of the case.

In view of above, petition is allowed. Petitioner is ordered to be released on regular bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate.

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

March 18, 2021

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Whether speaking/reasoned

Whether reportable

**(RAJ MOHAN SINGH)**  
**JUDGE**

Yes/No

Yes/No