

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

228

CRM-M-47634-2021

Date of Decision: 17.11.2021

Monty @ Virender

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Sandeep Gahlawat, Advocate,
for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana,
assisted by ASI Salinder.

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.339 dated 22.09.2020 at Police Station Sadar Gohana, District Sonipat, under Sections 302/34 IPC and Section 25 of the Arms Act (but charges were framed under Sections 302/34 & Section 201 IPC and Section 25 of the Arms Act).
2. The FIR was lodged at the instance of Azad, wherein he alleged that his youngest son, namely, Aman, who had solemnized love marriage about a year back, had been cultivating 3 ¼ kills of land belonging to the complainant. The other son of the complainant, namely, Krishan was a criminal type of person and had also spent 2 years in jail and upon being released from jail, he had been demanding his share in the property, but the complainant had

refused to give him the share and on account of which Krishan had been threatening Aman. It is alleged that on 22.09.2020, at about 8.00 PM, when Aman was present at the house, Krishan came there armed with a pistol and fired at Aman leading to his death.

3. Learned counsel for the petitioner has submitted that he has falsely been implicated in the present case and that he is nowhere named in the FIR and came to be nominated after about 10 days of the occurrence on the basis of a supplementary statement of the complainant, wherein he stated that he had now come to the know that the person accompanying Krishan was the petitioner. It has further been submitted that the other piece of evidence on which the prosecution relies upon is the disclosure statement of co-accused Krishan, which again is a weak type of evidence. It has further been submitted that the falsity of the case would be evident from the fact that the material witness i.e. the complainant has totally resiled from his statement when examined during the proceedings of trial and has not supported the case of the prosecution at all.

4. Opposing the petition, learned State counsel has submitted that since the police has been able to collect sufficient evidence to connect the petitioner with the alleged occurrence, no case for grant of bail is made out. Learned State counsel has, however, not disputed the fact that the complainant PW-1 Azad has since resiled from his statement, when he was examined before the trial Court. Learned State counsel has, however, informed that the petitioner as

on date has been behind bars since the last about 1 year and that he is not involved in any other case.

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 and came to be nominated subsequently on the basis of a supplementary statement and thereafter on the basis of the disclosure statement made by co-accused Krishan, the admissibility and veracity of which would be debatable. In any case, the material witness i.e. the complainant himself has resiled when he was examined by the trial Court. The petitioner, in any case, has been behind bars for a substantial period of 1 year and is not even stated to be involved in any other case. In these circumstances, further detention of the petitioner will not serve any useful purpose as the conclusion of trial will take some time. 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.

17.11.2021

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**(GURVINDER SINGH GILL)
JUDGE**

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