

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

235

CRM-M-767-2022 (O&M)

Date of Decision: 27.10.2022

Surinder Kumar @ Muti

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Navkiran Singh, Advocate,
for the petitioner.

Mr. Siddharth Attri, AAG, Punjab,
assisted by ASI Krishan 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.48 dated 06.03.2021 at Police Station Division No.8, Jalandhar, under Sections 302/451/452/148/149 IPC and Sections 25/27 of the Arms Act (Section 120-B IPC added later on).
2. The FIR was lodged at the instance of Surinder Pal Singh, wherein it has been stated that he has three children and that his second son Gurmit Singh @ Tinku was running the business of PVC and finance under the name and style of Baba PVT, Preet Nagar, Sodal road, Jalandhar. It has been alleged that on 06.03.2021 at about 1.25 PM, when he was present outside the shop of his son for some urgent work, 5 persons came there in a vehicle and while firing with their pistols, they entered the shop. At

- that time, his son Gurmit Singh and his driver were present in the shop and in the meantime, Harwinder Kumar, partner of his son, also reached there. It has been alleged that those persons fired shots inside the shop and after few minutes ran away from the spot after boarding vehicle parked outside the shop. It has been alleged that he (complainant) and Harwinder Kumar identified two boys as Puneet Sharma and Narinder Sharma @ Lalli. In the meantime, Mohit Kumar also reached at the spot and when they went inside the shop, they found that his son was lying in pool of blood due to fire arm injuries. Thereafter, they shifted the injured to Capitol Hospital, where the Doctor declared him dead. It has been alleged that due to some old enmity, the accused murdered his son.
4. Learned counsel for the petitioner has submitted that he is nowhere named in the FIR and came to be nominated on the basis of a disclosure statement made by co-accused Surinder Singh @ Happy, who himself came to be nominated pursuant to a disclosure statement made by Puneet Sharma. Learned counsel has further submitted that in any case even if the case of the prosecution qua the petitioner is taken to be correct, the only allegation against him is to the effect that he had conducted *recce* of the business premises of the deceased, where the occurrence took place and that he had lent his motor-cycle to the co-accused. It has been submitted that co-accused Narinder Sharma to whom the petitioner is stated to have lent his motor-cycle is related to the petitioner being his cousin. It has further been submitted that since the petitioner is not amongst the assailants and has been roped in with the aid of Section 120-B IPC, which is primarily based on disclosure statement, the petitioner

who has been behind bars since the last more than 1 year & 4 months deserves the concession of bail.

5. Opposing the petition, learned State counsel has submitted that since the name of the petitioner has surfaced during interrogation of co-accused as per which the petitioner had played a pivotal role in conducting *recce* of place of occurrence and has also provided his motor-cycle so as to facilitate the commission of crime, his complicity is clearly evident. Learned State counsel has, however, informed that the petitioner as on date has been behind bars since the last about 1 year, 4 months & 14 days and that out of cited 33 PWs, none has been examined till date. It has also been informed that the petitioner otherwise is not involved in any other case.
6. This Court has considered rival submissions.
7. Admittedly, the petitioner is not amongst the assailants, who were present at the spot who are alleged to have fired at the deceased. The petitioner is alleged to have conducted *recce* of the place of occurrence and also provided his motor-cycle to co-accused. The petitioner otherwise has been behind bars for a substantial period of more than 1 year & 4 months. Conclusion of trial will take some time inasmuch as none out of the cited 33 PWs has been examined so far. Having regard to the role of the petitioner and also his custody as well his clean record, further detention of the petitioner will not serve any useful purpose particularly keeping in view the fact that none out of cited 33 PWs has been examined till date. 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.

27.10.2022
Vimal

(GURVINDER SINGH GILL)
JUDGE

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