

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-9163-2022 (O&M)
Date of decision: 12.05.2022

Naresh

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Mohit Rathee, Advocate
for the petitioner.

Mr. Himmat Singh, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of regular bail in FIR No.272 dated 24.07.2017 under Sections 302/34 IPC and Section 25 of Arms Act, registered at Police Station Beri, District Jhajjar.

Learned counsel for the petitioner submits that as per allegations in the FIR, registered at the instance of Jai Singh, they are five brothers and his brother Bijender, Sanjay and complainant himself were residing together. They had an altercation on a small issue with Ishwar and Satish of their village about 2-3 months ago. The case was compromised, however, they were keeping grudge. On 24.07.2017, his brother Bijender was going to plot for taking milk

and when he was coming back, suddenly Ishwar, Satish and Naresh came from their plot and gave a lalkara to kill him. Satish and Naresh caught hold of him and Ishwar fired a shot with his gun. When the complainant raised voice, accused ran away from the spot with their weapons.

Learned counsel further submits that later on, Bijender died due to gun shot injury. It is also submitted that the petitioner is in custody for the last 04 years, 09 months and 02 days and is not involved in any other case. Learned counsel has referred to Annexures P-2 to P-5, to submit that star witnesses, who are brothers, including complainant Jai Singh, who appeared as PW3, Shamsheer appeared as PW7, Jitender appeared as PW8 and Hawa Singh appeared as PW9 and they have already been examined and were declared hostile, as they have not supported the prosecution version and a perusal of same would show that the witnesses have deposed that they have not killed their brother Bijender. Thereafter, they were cross-examined by the Public Prosecutor and the complainant even denied having made any complaint to the police.

It is further submitted that one co-accused Satish, against whom, identical allegations of catching hold of deceased Bijender along with petitioner Naresh, are there in the FIR, has been found innocent during the investigation. It is also submitted that the trial was delayed, as an application under Section 319 Cr.P.C. for summoning additional accused was filed, however, the same was dismissed. It is next submitted that vide order dated 24.05.2019 passed in CRM-M-10401-2019, one co-accused Manish @ Monu was granted the concession of regular bail.

Learned State counsel has filed the custody certificate in the Court today, which reflects that the petitioner is in custody for the last 04 years, 09 months and 02 days and on the basis of reply by way of affidavit of Investigating Officer, Police Station Beri, District Jhajjar, has submitted that there are 30 prosecution witnesses, out of which, 08 have already been examined and one accused Noshad died on 09.01.2018.

After hearing learned counsel for the parties, without commenting anything on merits of the case and considering aforesaid facts and circumstances of the case, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate, concerned.

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

12.05.2022
vishnu

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No