

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

**CRM-M No.17277 of 2021
Date of Decision: 06.01.2022**

Vikas

.....Petitioner.

Versus

State of Haryana

.....Respondent.

CORAM: *HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA*

Argued by:- Mr. Vinod Ghai, Senior Advocate with
Ms. Kanika Ahuja, Advocate and
Ms. Kirti Ahuja, Advocate
for the petitioner.

Ms. Ambika Sood, Addl. A.G, Haryana.

Mr. A.D.S. Sukhija, Advocate
for the complainant.

MEENAKSHI I. MEHTA, J.

The petitioner herein has sought the relief of regular bail in the criminal case arising out of the FIR bearing No.79 dated 21.02.2018 registered at Police Station Kharkhoda, District Sonipat, under Sections 302, 449, 216 read with Section 34 IPC and Section 25 of the Arms Act.

Bereft of unnecessary details, the allegations, as levelled by complainant Samunder Singh in the subject FIR, are that on 20.02.2018, his son named Deepak had gone to sleep in the *Gher* (an enclosed plot) at night and on the next day, when he (complainant) went there at about 05.00 AM, he found his son lying dead and his body smeared with blood. One

girl named Shiksha used to talk to and meet his son and due to this reason, her father Sudhir, Joginder, Rakesh and Vikas (the petitioner herein) had killed his son.

Initially, on completion of the investigation, said Shiksha was sent up to face trial for committing the offence under Section 302 IPC whereas the petitioner was found to be involved in the offences under Section 216 IPC and Sections 27 and 30 of the Arms Act. However, the ADGP (Crime), Panchkula, transferred the investigation of the case to the State Crime Branch, Gurugram later-on and the supplementary statements of the complainant were recorded and the petitioner as well as his co-accused named Sudhir, Joginder @ Jagga and Rakesh were joined in the investigation and thereafter, the supplementary Challan was presented against them with the allegations that they were found to have hatched a conspiracy to kill the above-named son of the complainant.

Status-report has already been filed on behalf of the respondent-State by way of the affidavit of the Deputy Superintendent of Police, City Sonipat.

I have heard learned Senior counsel for the petitioner as well as learned State counsel (assisted by learned counsel for the complainant) in the instant petition and have also perused the file thoroughly.

Learned Senior counsel for the petitioner has contended that the investigation of this case has been conducted by three different agencies, i.e initially by the local police and thereafter, by the CIA Staff and finally, by the State Crime Branch and the complainant has also made

supplementary statements and moreover, the petitioner was, initially, not found to be involved in the offence under Section 302 IPC and all these factors go to show that he has been falsely implicated in the present case and even otherwise, he is behind the bars since 31.07.2019 and in these circumstances, he deserves the relief as prayed for in this petition.

Per contra, learned State counsel has argued that the fire-arm injury suffered by the victim/deceased, is reported to have been caused with the licensed rifle belonging to the petitioner and his name did find mention in the initial version of the complainant as put-forth in the FIR and the investigating agencies were changed to bring the matter to a logical end and keeping in view the gravity of the offence as committed by the petitioner, the present petition be dismissed.

Though, the petitioner was, initially, found to be involved in the commission of the offences under Section 216 IPC and Sections 27 and 30 of the Arms Act but a bare perusal of the FIR Annexure P-1 itself reveals that the complainant had specifically named him as one of the assailants who had killed his son. Then, as mentioned in para 4 of the status-report, he (complainant) was constrained to approach this Court by way of filing the petition bearing **CRM-M No.14406 of 2018** with a prayer to transfer the investigation of the case to some independent agency, while pleading that the local police was not conducting the investigation in a fair manner and thereafter, the investigation of the case was entrusted to State Crime Branch, Gurugram and a Special Investigation Team (SIT) was constituted and during the investigation, the petitioner and his above-said

co-accused were also found to be involved in the commission of the offence under Section 302 IPC besides other offences as mentioned in the supplementary Challan submitted against them.

Further, the mere factum of recording of the supplementary statements of the complainant during the investigation, does not come to the aid of the petitioner at all to seek the relief of bail because as discussed earlier, the complainant had nominated him (petitioner) as one of the accused for the murder of his son, even in his first version qua the alleged occurrence which led to the registration of the said FIR. Even otherwise, this aspect can and shall be looked into and adjudicated upon by the trial Court at the appropriate stage after appreciating and evaluating the evidence that may be led on the record during the course of the trial.

As regards the said period of incarceration of the petitioner in connection with the present case, the same, in itself, does not help him at all for seeking the concession of regular bail in the circumstances when, it has categorically been deposed in para 8 of the status-report that the post-mortem report and ballistic expert's report and other available evidence establish that the victim had died a homicidal death due to the gun-shot injury with the rifle belonging to the petitioner which was recovered at his instance.

Keeping in view the above-discussed facts and circumstances as well as the gravity of the offence as alleged to have been committed by the petitioner, this Court is of the considered opinion that he (petitioner) does not deserve the relief of regular bail.

Resultantly, the petition in hand stands dismissed.

However, it is clarified that nothing contained here-in-before shall be construed to be an expression of the opinion of this Court on the merits of the case.

January 06, 2022
Yag Dutt

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: *Yes*

Whether Reportable: *Yes*