

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

**CRM-M No.23732 of 2021
Date of Decision:- 23.05.2022**

Amit

....Petitioner

Vs.

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. Atul Lakhanpal Sr. Advocate
with Mr. Arwinder Singh, Advocate
for the petitioner.

Ms. Harpreet Kaur, AAG, Haryana.

KARAMJIT SINGH, J.(Oral)

Prayer is for grant for regular bail to the petitioner in case having FIR No.463 dated 18.10.2016 registered under Sections 302, 34 of IPC, 1860 and 25, 54, 59 of Arms Act, 1959, Police Station Narnaund, District Hisar, Haryana.

As per the allegations appearing in the FIR on 18.10.2016 at about 7.00 P.M. complainant Rajender was going back to his home from the side of Shree Ram Mandir and his brother Pawan @ Tinku was going ahead of him at some distance, in the

meantime, three boys riding on a motorcycle came from side of village Bakhilana and started firing at his brother Pawan @ Tinku, on which his brother tried to save himself by running away but the assailants chased him and fired 5-6 fire arm shots which hit his brother and then the said assailants fled away from spot. Pawan @ Tinku died at the spot.

The counsel for the petitioner contends that the FIR in this case was registered against unknown persons and later on petitioner was named as an accused on the basis of alleged disclosure made by co-accused. The counsel further contends the petitioner is in custody since 26.12.2017 and no incriminating article was recovered from the petitioner during the investigation of the present case. He further contends that the complainant while appearing in the witness box failed to identify the present petitioner. He further made prayer that in these circumstances, the petitioner is entitled to grant of regular bail.

The State counsel has contested the present petition and submitted that petitioner is having criminal history. However, the State counsel on instructions from ASI Mahender Singh has not controverted the fact that the petitioner was named on the basis of disclosure made by co-accused and that petitioner is in custody since December, 2017 and that complainant while appearing in witness box has not supported the case of prosecution.

Admittedly, the petitioner is involved in other criminal cases. The counsel for the petitioner contends that in four criminal cases, the petitioner has been acquitted and in another four criminal cases, the petitioner has been granted bail.

Admittedly, the FIR in the present case was registered against the unknown persons who fired at Pawan @ Tinku as a result of which he died at the spot. The petitioner was later on named as an accused on the basis of disclosure made by co-accused. It will take time for conclusion of the trial. However, as has been admitted by the State counsel, the complainant failed to identify the petitioner while appearing in the witness box.

In view of the above, as the complainant/eye-witness has failed to support the case of prosecution, no purpose is going to be served by keeping the petitioner in custody for any longer period.

Thus, without commenting on the merits of the case the present petition is hereby accepted and the petitioner is ordered to be released on regular bail subject to his furnishing bail and surety bonds to the satisfaction of the Trial Court/CJM/Duty Magistrate concerned.

Disposed of accordingly, so also the pending miscellaneous application(s), pending, if any.

(KARAMJIT SINGH)
JUDGE

23.05.2022

P. Chawla

Whether reasoned / speaking?
Whether reportable?

Yes / No
Yes / No