

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

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**CRM-M-25915-2021 (O&M)
Date of decision: 26.04.2022**

SUMIT ALIAS MOGRA

....Petitioner(s)

Versus

STATE OF HARYANA

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present : Mr. L.S. Sidhu, Advocate
for the petitioner.

Mr. Ashish Yadav, Additional AG Haryana.

Mr. Ravinder Chaudhary, Advocate
Mr. Shalender Mohan, Advocate
for the complainant.

VINOD S. BHARDWAJ. J. (ORAL)

The instant petition has been filed under Section 439 Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No.173 dated 12.08.2020 under Sections 302, 120-B and 34 of the Indian Penal Code, 1860 and Section 25 of the Arms Act, 1959 (Section 392 IPC and Section 29 of the Arms Act added later on) registered at Police Station Julana, District Jind.

Learned counsel for the petitioner submits that the FIR in question had been registered on the statement of Ravinder S/o Satbir against Pardeep S/o Kuldeep, Jitender S/o Ramkaran, Jaideep S/o Ramkuwar, Sunil S/o Suresh and Virender S/o Tekram. It is pointed out that there are two eye-witnesses to the incident, who are Ravinder (brother of deceased Jitender) and Mamta (widow of the deceased Jitender). It is further contended that the investigation in the case is complete and as per the prosecution version, the assailants who had committed murder of Jitender had handed over the weapon used in the commission of the

offence to the petitioner and also gave a sum of Rs.35,000/- to the petitioner to facilitate their hiding from being arrested by the Police. He submits that the petitioner is in custody since 11.10.2020 and has already undergone nearly 1½ years of incarceration. It is further contended that only charge has been framed and the prosecution evidence has not commenced. He submits that further incarceration of the petitioner is not warranted.

Mr. Ashish Yadav, Additional AG Haryana submits that the complicity of the petitioner with the co-accused is evident from the fact that the weapon used in the crime is handed over to the petitioner and that the petitioner also arranged for a safe hiding place for the assailants after they had committed the offence. It is thus evident that he was acting in conspiracy with the other co-accused.

Learned counsel appearing on behalf of the complainant has however vehemently argued that the petitioner played an active role in facilitating the assailants to evade arrest and thus, showed his participation in the commission of the crime. He further submits that there are other cases registered against the petitioner and extension of any such benefit is likely to result in the concession of bail being misused.

I have heard learned counsel for the parties and have perused the material on record.

Taking into consideration the period of custody undergone by the petitioner as also the stage of trial and, the fact that the role of the petitioner in being a conspirator towards commission of offence is yet to be determined and, that the evidence collected so far is only to the extent that the petitioner facilitated the accused-assailants to evade arrest, would have to be tested on altogether different parameters. There is no active participation pointed out by the

prosecution against the petitioner in commission of the offence resulting in death of Jitender. The acts of omission committed by the accused after the commission of murder would have to be examined on separate parameters.

In view of the above, I deem it appropriate to enlarge the petitioner on bail. Accordingly, the present petition is allowed and the petitioner is admitted to regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of Trial Court/Duty Magistrate, concerned.

It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

The observation made hereinabove shall not be construed as an expression on the merits of the case and the Trial Court shall decide the case on the basis of available material.

(VINOD S. BHARDWAJ)
JUDGE

April 26, 2022
S.Sharma(syr)

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