

231

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

CRM-M-29714-2022

Date of decision : 22.11.2022

Jatin

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

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

Mr. Praveen Bhadu, AAG, Haryana.

Mr. Vikas Bishnoi, Advocate for the complainant.

VIKAS BAHL, J. (ORAL)

Prayer in the present petition is for grant of regular bail to the petitioner in FIR No.371 dated 05.08.2019 registered under Sections 302, 34 of Indian Penal Code, 1860 and Section 25 of the Arms Act, 1959 (Sections 201, 202 and 120-B of IPC have been added later on) at Police Station City Tohana, District Fatehabad, Haryana.

Learned counsel for the petitioner has submitted that the petitioner is in custody since 24.07.2021 and investigation is complete and challan has been presented and there are 38 prosecution witnesses, out of which, none have been examined as yet and thus, the conclusion of trial is likely to take time. It is further submitted that the petitioner is not involved in any other case and has not been named in the FIR and in FIR, it has been specifically stated that three

boys had come to the place of incident, out of which, two boys i.e. Rahul Boxer and Sandeep Boxer have been specifically named in the FIR. It is contended that third person who is stated to have shot the deceased has also specifically been named in the supplementary statement dated 06.08.2019 (Annexure P-1) recorded by the complainant as Satnam son of Madan Lal. It is further contended that the name of the petitioner has been mentioned for the first time in the supplementary statement dated 06.08.2019 and even as per the said supplementary statement, no overt act, much less injury, has been attributed to the present petitioner and it has only simply been stated that two boys were riding the bike make Bajaj Pulsar, one of whom was Jatin and other was Rahul Boxer. It is argued that only motorcycle-Bajaj Pulsar has been recovered from the present petitioner which cannot be directly linked to the occurrence.

On the other hand, learned State Counsel and learned counsel for the complainant, have opposed the present petition for grant of regular bail to the petitioner and have submitted that as per disclosure statement of the present petitioner, even he was involved in the incident and bike make Bajaj Pulsar which was also seen roaming around in the area where the incident had taken place was recovered from the present petitioner.

This Court has heard learned counsel for the parties and has perused the paper book.

In the present case, the petitioner is in custody since 24.07.2021 and investigation is complete and challan has been presented and out of 38 prosecution witnesses, none have been examined as yet and thus, the conclusion of trial is likely to take time. The petitioner is stated to be not involved in any other case and has not been named in the FIR and as per the FIR, it has specifically been stated that there were three young boys who had

come at the place of occurrence, out of which, two boys have been specifically named in the FIR itself i.e. Rahul Boxer and Sandeep Boxer and the third person who had shot the deceased with the pistol has specifically been named by the complainant in the supplementary statement dated 06.08.2019 as Satnam son of Madan Lal. Even as per supplementary statement dated 06.08.2019, in which the name of the petitioner has been specifically mentioned, no overt act or specific injury has been attributed to the present petitioner.

Keeping in view the abovesaid facts and circumstances, the present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate, subject to him not being required in any other case.

However, it is made clear that in case, any act is done by the petitioner to threaten the complainant or any of the witnesses, then it would be open to the State to move an application for cancellation of bail granted to the petitioner.

Nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

22.11.2022*Pawan***(VIKAS BAHL)
JUDGE****Whether speaking/reasoned:- Yes/No****Whether reportable:- Yes/No**