

**In the High Court for the States of Punjab and Haryana  
At Chandigarh**

CRM-M-35829-2022 (O&M)  
Date of Decision:-10.11.2022

Amit Saini ... Petitioner

Versus

State of Haryana ... Respondent

**CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL**

Present:- Mr. D.S. Matya, Advocate for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana.

Mr. Vijay Dahiya, Advocate for the complainant.

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**GURVINDER SINGH GILL, J.(Oral)**

**CRM-29021-2022**

In view of the reasons mentioned in the application, the same is allowed as prayed for.

**CRM-M-35829-2022 (Main Case)**

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered vide FIR No.147 dated 20.3.2020, Police Station Sector Sector-10, Gurugram, District Gurugram, under Sections 302, 34 of Indian Penal Code and Sections 25(1B)(a) and 27(1) of Arms Act.

2. The FIR was lodged at the instance of Mahavir Singh Yadav, wherein it is alleged that he has a son and a daughter and that his son is running an office under the name and style of 'Gaurav Properties'. It is alleged that a person named Amit Saini (petitioner) was having friendship with his son and his son used to talk to Amit Saini's wife Shivani, which was not approved of by Amit Saini and he nursed a grudge against complainant's son Gaurav. It is alleged that on 19.3.2020 at about 11:30 p.m., when his son Gaurav was returning home from his office, his vehicle got punctured. While he was replacing the tyre, Amit Saini and his associates murdered his son Gaurav by firing at him. It is further the case of prosecution that during the course of investigation, statement of one Vinod Singh Raghav was recorded, who stated that on the fateful day, he alongwith Gaurav and Laxman were travelling in a car and that their co-associate Sajjan was following them on his motorcycle. He further stated that while on the way they noticed that one of the tyre of car had deflated on account of which they stopped the car and started changing the wheel, then two persons came on a motorcycle and opened fire towards Gaurav leading to his death. He specifically stated that the said two persons were Vipin Sharma and Amit Saini. The police also recorded the statement of another co-passenger Laxman Dass, who also stated to a similar effect. Statement of Sajjan, who was following the car on his motorcycle, was also recorded, who also named the aforesaid two persons as assailants.
3. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in the present case and that the falsity of the case would be evident from the fact that all the three eye-witnesses i.e. two co-passengers of the deceased and another person, who was following the car on a motorcycle i.e. PW-4 Vinod, PW-5 Laxman Dass and PW-7-Sajjan Yadav,

have not supported the case of prosecution when they were examined during the course of trial. Learned counsel has further submitted that since the petitioner has been behind bars for the last more than 2 years and 9 months, he deserves the concession of bail.

4. Learned State counsel assisted by learned counsel for the complainant has submitted that although 3 witnesses examined by the prosecution i.e. Vinod Singh Raghav, Laxman and Sajjan have not fully supported the case of the prosecution but apparently they had been won over by the accused. It has been submitted that one more eye-witness namely Vinod Son of Om Parkash has already been examined, who has fully supported the case of the prosecution. Learned State counsel has informed that the petitioner as on date has been behind bars since the last about 2 years and 9 months and that as on date 15 PWs out of the cited 25 PWs stand examined. Learned State counsel has also informed that the petitioner stands involved in one more case registered for offence punishable under Section 285 of Indian Penal Code and Section 25 of Arms Act.
5. This Court has considered the rival submissions.
6. It is not in dispute that 3 of the eye-witnesses, who are named in the FIR itself i.e. Vinod Singh Raghav, Laxman and Sajjan did not support the case of prosecution when they were examined during the proceedings of trial. Though one more prosecution witness i.e. PW-9 Vinod Son of Om Parkash is stated to have supported the case of the prosecution but said Vinod was not named in the FIR and came to be named subsequently after about 6 days of the occurrence in the supplementary statement of the witnesses. In these circumstances, the evidentiary value of the statement of PW-9 Vinod son of

Om Parkash would be debatable given the fact that other prosecution witnesses named in the FIR have resiled. The petitioner, in any case, has been behind bars for a substantial period of 2 years and 9 months. Co-accused Vipin Sharma has already been granted bail by this Court vide order dated 5.4.2022 passed in CRM-M-54265-2021 (Annexure P-12). Conclusion of trial is still likely to consume more time inasmuch as only 15 PWs out of the cited 25 PWs have been examined so far. Otherwise all the eye-witnesses out of the cited PWs already stand examined. As such, further detention of the petitioner will not serve any useful purpose. The petition, as such, is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

**10.11.2022**

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**( Gurvinder Singh Gill )  
Judge**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No