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

CRM-M-43910-2022

Date of decision : 27.09.2022

Jaspal Singh @ Jajpal Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Vivek Salathia, Advocate for the petitioner.

Mr. Ramdeep Partap Singh, Sr. DAG, Punjab.

VIKAS BAHL, J. (ORAL)

Prayer in the present petition is for grant of regular bail to the petitioner in FIR No.6 dated 06.01.2018 registered under Sections 302, 120-B and 201 of the Indian Penal Code, 1860 and Sections 25/27 of the Arms Act, 1959 at Police Station City Tarn Taran, District Tarn Taran.

Learned counsel for the petitioner has submitted that as per the FIR, in the *shagun* function of Dharminder Singh, the petitioner and other persons after consuming the liquor, were dancing and while dancing, the present petitioner, who was holding a gun, had started firing from his pistol and one of the bullets fired from his pistol hit the ribs of Amandeep Singh, injuring the elbow of his left hand and on his way to the hospital, he died. It is further submitted that, as per the case of the prosecution, there are six

eye-witnesses i.e. PW1-Jagtar Singh, PW2-Karamjit Kaur, PW6-Sheetal Singh, PW7-Mandeep Singh, PW8-Pawandeep Singh and PW10-Dharminder Singh, all of whom have been examined and none of them have supported the case of the prosecution. It is contended that three witnesses who have supported the case of the prosecution are PW3-Bhupinder Singh (father of the deceased), PW4-Manjinder Singh (brother of the deceased) and PW5-Nirmal Singh (Uncle of the deceased) and none of them were eye-witnesses to the occurrence and as per their evidence, they have stated that they had later come to know that it was the present petitioner who had fired the shot from his pistol that had hit the deceased Amandeep Singh. It is further contended that the petitioner is in custody since 27.01.2021 and there are 37 prosecution witnesses, out of which, only 11 witnesses have been examined and thus, the conclusion of trial is likely to take time. It is argued that the material witnesses have already been examined.

Learned State Counsel, on the other hand, has opposed the present petition for grant of regular bail to the petitioner and has placed on record the custody certificate, as per which, the petitioner is involved in one more case, in which, he is on bail. The custody period as stated by the learned counsel for the petitioner stands reaffirmed by the State Counsel. It is further submitted that three witnesses i.e. PW3, PW4 and PW5 have supported the case of the prosecution and in their evidence, they have also stated that there was a dispute between the petitioner and the deceased.

Learned counsel for the petitioner, in rebuttal to the abovesaid argument, has relied upon the judgment of Hon'ble Supreme Court in ***“Maulana Mohd. Amir Rashadi vs. State of U.P. and another”***, reported

as **2012 (2) SCC 382** to contend that the facts and circumstances of the present case are to be seen and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in another case. The relevant portion of the said judgment is reproduced hereinbelow:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

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

A perusal of the FIR would show that as per the same, the petitioner, while dancing in the *shagun* function of Dharminder Singh, had started firing from his pistol and one of the bullets from his pistol had hit the ribs of Amandeep Singh, first injuring elbow of the left hand of Amandeep Singh, who was subsequently taken to the Hospital and on the way to the Hospital, he had died. As per the case of the prosecution, there are six eye-witnesses and all of the said witnesses have been examined and out of them, none have supported the case of the prosecution. PW1-Jagtar Singh was the person who did photography at the *shagun* ceremony of Dharminder Singh and was present at the spot but had specifically stated in his examination-in-chief that he had not given any statement regarding the occurrence and accordingly, was declared hostile. PW2-Karamjit Kaur, who is mother of Dharminder Singh, had stated that she had not given the statement to the police and she had not identified the petitioner who was present in the Court

on the said date and had stated that she had seen him for the first time in the Court and accordingly, was declared as hostile. PW6-Sheetal Singh who was a labourer and had also attended the *shagun* ceremony, had stated that although, he attended the *shagun* ceremony but stated that he had not made any statement before the police and he did not know the present petitioner and accordingly, was declared as hostile. PW7-Mandeep Singh, who was also a labourer and attended the *shagun* ceremony, had also given the statement to the similar effect as that of PW6-Sheetal Singh. PW8-Pawandeep Singh, was also a labourer and his statement was also similar to the statements of PW6 and PW7 and the said witnesses had been declared hostile. PW10-Dharminder Singh was the person whose *shagun* ceremony was being held and he had stated that he had not heard any sound of firing during the ceremony as the DJ was playing and he later came to know that someone had died and he had further stated that he had not made any statement before the police and accordingly, was declared as hostile. Although, the statements of PW3, PW4 and PW5 have not been annexed with the present petition but the copy of the same have been forwarded by the counsel for the petitioner during the course of arguments. A perusal of the statements of PW3, PW4 and PW5, who are father, brother and uncle of the deceased, respectively, would show that the said witnesses have stated that they had later come to know that the petitioner and the deceased had a heated exchange of words during the *shagun* ceremony of Dharminder Singh, where Jaspal Singh @ Jajpal Singh (present petitioner) had fired from his pistol. A perusal of the said statements would prima facie, show that the said persons i.e. PW3, PW4 and PW5 were not eye-witnesses of the

occurrence. In the present case, the petitioner is in custody since 27.01.2021 and out of 37 prosecution witnesses, only 11 witnesses have been examined as yet and thus, the conclusion of trial is likely to take time.

Keeping in view the abovesaid facts and circumstances and also in view of law laid down in ***Maulana Mohd. Amir Rashadi's*** case (Supra), 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.

27.09.2022*Pawan***(VIKAS BAHL)
JUDGE****Whether speaking/reasoned:-****Yes/No****Whether reportable:-****Yes/No**