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

CRM-M No.49650 of 2022 (O&M)

Date of decision: 15.12.2022

Veerkaran Singh @ Karan

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Bipan Ghai, Sr. Advocate
with Mr. Nikhil Ghai, Advocate
and Mr. A.S. Pannu, Advocate
for the petitioner.

Mr. Shubham Kaushik, DAG, Punjab.

Mr. Gurcharan Dass, Advocate
for the complainant.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.68 dated 14.05.2020, for offence punishable under Sections 302, 307, 34 of the Indian Penal Code, 1860 (in short 'IPC') (Sections 188 and 201 IPC added later) and Section 25 of the Arms Act, registered at Police Station Basti Jodhewal, District Ludhiana.

Learned senior counsel for the petitioner has submitted that the FIR was registered at the instance of Manish Manocha that on 13.05.2020, he was present at his home and his brother Girish was repairing a tandoor in the verandah, when somebody screamed that is it Manish's and Girish' house who deals in mobile phones and his brother

Girish answered that Yes they are dealing in the same and in the meantime, the persons standing outside, started firing bullets. When his brother tried to ran away, in the meantime, a person, with his face covered with handkerchief, fired bullets through small gate, which hit his brother Girish and he fell down and when the complainant tried to pick him up, his mother came from inside the house and screamed and thereafter, both the persons ran away on the motorcycle. Later on, he saw that his father also sustained injury and he was lying on the floor and he took his father and brother to the hospital, where his brother Girish died and his father Joginder Pal survived.

Learned senior counsel for the petitioner has placed on record the certified copy of the statement of PW-1 Manish Manocha, examined before the trial Court, which is taken on record as 'Mark X'. In the statement of Manish, it is stated that he did not identify the accused persons present in the Court. This witness was declared hostile and on cross-examination by the Public Prosecutor, he stated that he had heard the voice outside the house and when he came out, he saw that his brother and father were lying on the floor. He was confronted with his statement Ex.PA, however, he denied making any such statement to the police. Even in the later part of the statement, which was confronted from different points, this witness have not supported the prosecution version. Similar is the statement of his father PW-2, Joginder Pal Manocha, who is also one of the injured witness, who sustained bullet injury. This witness also stated that he do not know the persons, who have caused fire-arm injury and he do not identified the accused persons present in the Court. This witness was also declared

hostile and was cross-examined by the Public Prosecutor wherein he again denied his statement given to the police Mark A.

Learned senior counsel for the petitioner has further argued that even in the statement of PW-3 Vipin Kumar, it has come that the accused present in the Court have not committed the murder of Girish Manocha and they have not fired at Joginder Pal nor there was any conspiracy. This witness was also declared hostile and even denied the statement Mark B, given to the police. Further in the statement of PW-4 Sushma Rani, mother of the deceased Girish and wife of Joginder Pal, stated that the accused present in the Court have not committed the murder of her son and has not caused any injury to her husband. This witness was also declared hostile and she also denied making any statement Mark C to the police. Similar is the statement of PW-5 Neha, who is wife of Manish Manocha/complainant and she was also declared hostile.

Learned senior counsel for the petitioner has further argued that the star witnesses/eye-witnesses/injured witness have already been examined and none of them have supported the prosecution case. Lastly, it is submitted that the petitioner is in custody for the last 02 year, 06 months and 22 days and he is not involved in any other case.

Counsel for the State on the basis of the Custody Certificate has not disputed the factual position but opposed the prayer for bail. Counsel for the State further on the basis of the affidavit of the SHO, has submitted that during the investigation, on the basis of the disclosure statement of Rajender Manocha, the petitioner was nominated in this case as a person, who has made recci of the place

where the crime was committed. It is also stated that one pistol, a knife, motorcycle and mobile phones were recovered.

Counsel for the complainant, on the other hand, also could not dispute the fact that all the five prosecution witnesses, who are none other than the injured witness as well as the brother, father and mother of deceased Girish Manocha, have not identified the petitioner as one of the accused or have not supported the prosecution version.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody for the last 02 years, 06 months and 22 days; the petitioner is not involved in any other case; the custodial interrogation of the petitioner is not required; all the star witnesses of the prosecution have not supported the case and the conclusion of the trial will take some time, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

15.12.2022
yakub

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