

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

CRM-M-1273-2023 (O&M)
Date of Decision:- 16.1.2023

Ashish @ Kaka

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Fateh Saini, Advocate, for the petitioner.

Mr. Gurmeet Singh, AAG, Haryana.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner seeks grant of regular bail in respect of a case registered against him vide FIR No. 349, dated 16.11.2019, Police Station Parao Ambala Cantt, District Ambala, under Sections 148, 149, 302, 323, 324 IPC (Section 120-B IPC and Section 25/54/59 of Arms Act added later on).
2. The FIR was lodged at the instance of Monu wherein it is alleged that his brother Sonu has been murdered by unknown persons and that the said information had been furnished to him by Surinder Noori who was present along with the deceased. The petitioner came to be nominated as an accused pursuant to disclosure statement made by co-accused Gurdeep @ Gudhi.

3. Learned counsel for the petitioner submits that the petitioner is nowhere named in the FIR and came to be nominated on the basis of a disclosure statement of co-accused Gurdeep @ Gudhi who has already been granted bail. It has further been submitted that in fact the petitioner has been nominated falsely and the falsity would be evident from the fact that when the complainant i.e. PW-2 Monu as well as the eye-witnesses i.e. PW-1 Surinder Noori stepped into the witness box they absolutely resiled from their statements.
4. Opposing the petition, learned State counsel submits that it is apparently a case where the accused have been able to intimidate or win over the witnesses and since the co-accused has specifically named the petitioner, he does not deserve the concession of bail. It has also been informed that the knife has been recovered from the petitioner. It has however, been informed that the petitioner has been behind bars since the last about 3 years and 2 months and he is not involved in any other case. It is also informed that as on date only 4 out of the cited 37 PWs have been examined.
5. This Court has considered the rival submissions.
6. Admittedly, the petitioner is not named in the FIR and came to be nominated on the basis of statement of co-accused. The veracity and admissibility of such like statement would be debatable. In any case the star witnesses including the complainant and the eye-witness have already resiled when they were examined during the proceedings of trial. The petitioner has been behind bars for a substantial period of about 3 years and 2 months and enjoys a clean

record. In these circumstances 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 bail subject to his furnishing bail bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

16.1.2023
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(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No