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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(219)

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Date of decision:- 10.08.2023

Yash Tiwari

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Anand Bhardwaj, Advocate
for the petitioner.

Mr. Ramender Singh Chauhan, AAG, Haryana

Ms. Ruby Kaur, Advocate for
Mr. Rajesh Lamba, Advocate
for the complainant.

...

SUVIR SEHGAL, J. (Oral)

1. Instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 seeking grant of post-arrest bail in:-

FIR No.	Dated	Police Station	Sections
753	11.12.2021	City Palwal, District Palwal	302 and 34, IPC and Section 25 of the Arms Act, 1959

2. Case of the prosecution is that FIR, Annexure P-1, has been registered on the statement of Raj Kumar, wherein he stated that on 11.12.2021 at about 01:00 P.M., when his brother, Rajbir, was standing near Propex City Channel on Sohna road with his friend, Rohit, two boys

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came on a motorcycle. Yash Tiwari, present petitioner, fired at Rajbir with his pistol. On hearing the gun shot, complainant, who was working in a field nearby, rushed to the spot when both, Yash Tiwari and his fat and dark colour friend, sped away. Rajbir was immediately shifted to a hospital, but was declared brought dead.

3. Counsel for the petitioner contends that the petitioner had enmity with Rohit, who had attacked him with a knife and a criminal case was registered against him. He submits that Rohit was pressurizing the petitioner to compromise the matter, but on his refusal, he has falsely enmeshed the petitioner in the instant case. Counsel submits that the petitioner, who is a young man of 23 years of age and a national Taekwondo champion with numerous prizes and medals, deserves to be enlarged on bail as the trial is not likely to conclude in the near future and the petitioner has been languishing behind bars since December, 2021.

4. *Per contra*, State counsel, upon instructions, has opposed the petition by referring to the allegations levelled in the FIR. Still further, he submits that the prosecution evidence is underway and five out of twenty five prosecution witnesses have been examined. He is assisted by counsel for the complainant, who has urged that the petitioner has been duly recognized by the brother of the deceased.

5. I have considered the respective submissions made by counsel for the parties.

6. There are direct allegations against the petitioner, who has not only been named in the FIR, but as also been accused of firing the fatal shot on the deceased. The brother of the deceased is an eye-witness of the

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gruesome incident and has identified the petitioner. Although, prosecution evidence has started, but the complainant as well as Rohit, both the vital witnesses, are yet to step into the witness box. The enmity of the petitioner with Rohit has no concern with the present occurrence.

7. Noticing the nature of allegations levelled against the petitioner, gravity of offence allegedly committed by him and severity of punishment likely to be imposed in case the petitioner is convicted, this Court does not find any merit in the prayer made in the petition.

8. Petition is dismissed.

9. It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

10.08.2023
Kamal

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No