

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-13777-2022

Date of Decision: 27.3.2023

Rashim Arora

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Gagandeep Singh Bajwa, Advocate
for the petitioner.

Mr. Sanish Girdhar, AAG, Punjab

KARAMJIT SINGH, J.

Prayer in the present petition under Section 439 of Code of Criminal Procedure is for grant of regular bail to the petitioner in case FIR No.319 dated 27.11.2020 registered for the offences punishable under Sections 302, 34 IPC and Sections 25, 27 of Arms Act at Police Station Sadar, Amritsar.

FIR in this case was registered on the basis of the statement of complainant-Ramesh Kumar wherein he stated that at about 12:30 p.m., his nephew Mani was standing near his shop while the complainant was present inside his shop and in the meantime, two young boys came on black splendor motor cycle having muffled faces and they stopped their motorcycle in front of Mani and then pillion rider got down and fired shots with two pistols which he was holding in his hands. On seeing them, Mani tried to run away but he slipped and then the said pillion rider went near

Mani and fired shots which hit Mani on his head and other parts of his body

and then the said two persons sped away from there. The complainant was of the belief that Mani was shot dead at the instance of Shubham who at that time was lodged in jail. During investigation, the petitioner was arrested on 1.12.2020.

Counsel for the petitioner has *inter alia* contended that FIR in this case was registered against two unknown persons who reached the spot on a motorcycle and the pillion rider shot dead Mani nephew of the complainant at the instance of Shubham. He further submits that the petitioner is in custody for the last more than 2 years and during the investigation, no weapon was recovered at the instance of the petitioner and the only allegations against the petitioner are that he did *recce* of the place of occurrence and disclosed about the movement of the deceased to the main assailants. He further submits that all the material witnesses are examined but it will take considerable time for the trial to conclude. So, prayer is made that the petitioner be released on regular bail.

Present petition is contested by the State counsel who on instructions from ASI Tarsem Singh submits that the petitioner did *recce* and kept watch on the movement of the deceased and in this manner, facilitated the main assailants to commit murder of Mani. However, the State counsel has not disputed the fact that the petitioner is in custody for the last more than 2 years and no incriminating article was recovered from his possession and that the complainant and other material witnesses are examined and one of the material witness namely Palwinder Singh has died as is evident from status report dated 20.2.2023 submitted by the trial Court.

I have considered the submissions made by the counsel for the

parties.

Admittedly, the petitioner was not named in the FIR and was arrested on 1.12.2020 and during investigation, no weapon or other incriminating article was recovered from the possession of the petitioner. As per State counsel, only allegations against the petitioner are that he did *recce* and disclosed about the movement of the deceased to the main assailants. The exact complicity of the petitioner will be unfolded during trial. As per State counsel, material witnesses are already examined. So, there is no apprehension that if released on bail, the petitioner is going to influence them. However, it will take time for conclusion of trial. Thus, no useful purpose is going to be served by keeping the petitioner in custody for any further period.

In view of the above, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

(KARAMJIT SINGH)
JUDGE

March 27, 2023
Paritosh Kumar

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