

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-16445-2023
Date of Decision:-26.05.2023

SONU

... Petitioner

Versus

STATE OF HARYANA

... Respondent

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CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

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Present:- Mr. Aditya Sanghi, Advocate
for the petitioner.

Mr. Vishal Kashyap, DAG, Haryana.

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KARAMJIT SINGH, J. (Oral)

1. The petitioner has approached this Court seeking grant of regular bail in a case having FIR No.279 dated 18.6.2020 registered under Sections 148, 149, 323, 302, 506, 120-B IPC and Section 25 of Arms Act, at Police Station City Mahendergarh, District Mahendergarh.
2. As per the allegations recorded in the FIR, complainant-Bijender reported to the police that on 17.6.2020 at 9:40 pm, 2 young boys were riding on a motorcycle, which was driven at high speed in the street of the complainant and complainant and his uncles Krishan and Hoshier Singh told the said motorcyclist to drive their motorcycle in a proper

way. The said motorcycle was driven by Kuldeep while present petitioner was sitting on the pillion seat and then both the said boys went away from there and after some time, petitioner, Kuldeep, Dholi, his brother, and Amit accompanied by 7/8 other boys came towards the house of complainant and started abusing and then attacked Krishan and gave beatings to him and they also fired shots, one of which hit Santra mother of complainant and then the aforesaid persons fled away from there and later on mother of the complainant died.

3. The counsel for the petitioner *inter alia* submits that the petitioner, who is falsely implicated in the present case is in custody for the last about 3 years and that complainant Bijender and eye-witness Krishan while appearing in the witness box have not named the petitioner as one of the assailants and the copies of their testimonies are Annexure P-14 (collectively). The counsel for the petitioner further submits that similarly situated co-accused Dholi and Sunder are already granted regular bail vide orders Annexure P-11 and Annexure P-12 by the Coordinate Bench of this Court. The counsel for the petitioner further submits that during investigation, no fire arm was recovered from the possession of the petitioner and rather fire arm was recovered from co-accused Kuldeep. The counsel for the petitioner submits that it will take time for the trial to conclude, so it is prayed that the petitioner be granted regular bail.
4. The instant petition is resisted by the State counsel who on instructions from SI Jai Pal submits that the petitioner is one of the main accused, who was named in the FIR and was accompanying Kuldeep, who fired

fatal shots resulting in death of Santra. The State counsel further submits that the pistol used in the commission of crime was recovered from co-accused Kuldeep while car which was used by the accused person was recovered at the instance of the petitioner. However, the State counsel has not disputed the custody period of the petitioner, which comes out to be 2 years and 11 months. The State counsel further submits that out of total 21 witnesses till date prosecution has examined 12 witnesses and it will take time for the trial to conclude.

5. I have considered the submissions made by counsel for the parties.
6. No doubt the petitioner was named in the FIR. As per custody certificate, the petitioner is behind the bars for the last more than 2 years and 11 months. Admittedly the trial is going on and during trial material witnesses namely complainant-Bijender and eye-witness Krishan are examined, but they have not deposed anything incriminating against the petitioner and copies of their testimonies are available on the record. As has been admitted by the State counsel, no fire arm is recovered from the possession of the petitioner and rather one pistol is recovered from co-accused Kuldeep, who is stated to have fired the fatal shot as a result of which mother of the complainant. Further, co-accused Dholi, who was also named in the FIR and is further named by the complainant and Krishan in their depositions is already granted regular bail by Coordinate Bench vide order dated 17.2.2021 (Annexure P-11). It will take considerable time for the trial to terminate, so no fruitful purpose is going to be served by prolonging judicial custody of the petitioner for indefinite period.

8. In the given circumstances, no purpose is going to be served by detaining the petitioner in custody for any longer period. Thus, without commenting on the merits of the case, the petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail and surety bonds to the satisfaction of the trial Court/CJM/Duty Magistrate concerned.

26.05.2023
Gaurav Sorot

(KARAMJIT SINGH)
JUDGE

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