

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

**CRM-34410-2023 in/and
CRM-M-22930-2023
Date of decision : 22.08.2023**

RITIK

....Petitioner

Versus

STATE OF HARYANA

....Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Keshav Pratap Singh, Advocate
for the petitioner.

Mr. R.K. Ambavta, AAG, Haryana with
ASI Rajesh Kumar.

Mr. N.K. Chhokar, Advocate for the complainant.

PANKAJ JAIN, J. (ORAL)

CRM-34410-2023

This is an application for placing on record order dated 10th of August, 2023 as well as statement of complainant/PW-1-Roshan marked as as Annexures R-2/1 and R-2/2, respectively.

For the reasons recorded in the application, the same is allowed. Documents marked as Annexures R-2/1 and R-2/2 are taken on record subject to all just exceptions.

CRM-M-22930-2023

This petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case F.I.R. No.165, dated 8th of April, 2022 registered for the offences punishable under Sections 148, 149, 323,

307, 302, 34 of the IPC, 1860 and Sections 25 and 27 of the Arms Act, 1959 (Offence under Section 34 IPC and Section 27 of the Arms Act added later on), at Police Station, Industrial Area, Sector 29, Panipat, District Panipat.

2. Contents of the FIR reads as under :

“To, the SHO, Police station, Sector 29, Panipat. Sir, It is submitted that I, Roshan son of Janeshwar, am resident of Pashina Khurd, District Panipat and am doing agricultural work. Today at about 9.30 PM, I and my younger brother Sandeep had been going to our Shimla Gujranwala Field for watering the field. When we both reached in front of house of Teelu son of Phala Ram, Sonu son of my uncle (chacha) Rakam Singh, who was having sugarcane in the tractor, was coming towards his house and Ritik son of Brahampal alongwith his tractor had been going towards the fields. When we both brothers reached near him, altercation was going on between Sonu and Ritik together, then in my presence Ritik had made a phone call to his father Brahampal, just after some time of making phone call, Brahampal, Mahipal and Ompal sons of Hukam Singh, Naresh, Pardeep, Parveen sons of Raghbir, Sachin son of Mahipal, Neeta wife of Naresh, Usha wife of Brahampal, Saroi wife of Mahipal, Pinki wife of Ompal and Pardeep's wife, whose name is not known to me, had come at the spot and on coming Brahampal fired on the chest of Sandeep in my presence with his licensed pistol Then Sachin son of Mahipal, who was having country made pistol in his hand, had fired upon me with intention to kill me. I was saved. Then Ompal son of Hukam Singh, having his licensed Doga, had fired upon Sandeep, Pardeep and his brother Parveen son of Raghbir both brothers were having country made pistols. Both those brothers also fired in air upon us. The remaining men and women were having Gandasa, swords and cutter in their hands and remaining men and women of their family had come at the

spot. My family was assaulted by Rakam Singh son of Bhagu, Sonu and Satbir sons of Rakam Singh with their weapon and due to which Rakam Singh, Sonu, Satbir were also injured on the spot. Brahampal, Ritik, Ompal by firing bullets upon my brother Sandeep, have committed his murder and have opened killing assault upon me and my family, strict legal action be taken against Ritik, Brahampal, Ompal, Mahipal, Sachin, Naresh, Pardeep, Parveen, Neeta and Saroj, Pinki and wife of Pardeep. Applicant Roshan Lal son of Janeshwar residents of Pashina Khurd, District Panipat, Mobile No.8816031912, 9671510180.”

3. Counsel for the petitioner submits that even if the contents of FIR are taken on their face value it is evident that the only role attributed to the petitioner is that after he entered into altercation with Sonu, he made a phone call to his father Brahampal. Brahampal came on the spot with other co-accused and is alleged to have fired shots from his licensed pistol which led to death of Sandeep. It has been contended that since there is no allegation of prior meeting of minds the petitioner cannot be accused of offence punishable under Section 302 IPC even with the aid of Section 34 IPC. Petitioner is behind bars since 11th of April, 2022. Investigation already stands concluded and the complainant already stands examined as is evident from the testimony placed on record by the complainant himself as R-2/2 by way of CRM No.34410 of 2023 and thus there can't be any apprehension that the petitioner can possibly tamper with any piece of evidence.

4. Counsel for the complainant however submits that it is the

petitioner who triggered the incident leading to murder of Sandeep and there are other injured witnesses which are yet to be examined and thus the petitioner would not be entitled for bail at this juncture.

5. State Counsel adds to the averments made by counsel for the complainant submitting that keeping in view the serious offence of Section 302 IPC alleged against the petitioner it would not be a case of extending the concession of bail to the petitioner.

6. I have heard counsel for the petitioner and have gone through records of the case.

7. Admittedly, even if the allegations of FIR are taken to be gospel truth the only role attributed to the petitioner is of having called his father Brahampal after entering into altercation with Sonu. There is no allegation that there was a pre-planned conspiracy between the petitioner as well as his father. The petitioner has suffered incarceration for more than 1 year and 3 months. Investigation report already stands presented. Trial has proceeded considerably as the material witness i.e. the complainant already stands examined.

8. Keeping in view the cumulative effect of the aforesaid factors, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

9. Needless to say that anything observed hereinabove shall not
be construed to be an expression of opinion on the merits of the case.

August 22, 2023
Dpr

(Pankaj Jain)
Judge

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