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2023 : PHHC : 090930
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-34668-2021
Date of Decision: 19.07.2023

PAWAN KUMAR

... PETITIONER

V/S

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. E.A.George, Advocate for the petitioner.

Mr. Sidhant, AAG Haryana.

* * *

VIVEK PURI, J. (ORAL)

1. The petitioner has prayed for grant of regular bail in case FIR No.352 dated 29.7.2018, under Sections 148/149/307/302/379/120-B IPC and 25/54 of Arms Act, registered at Police Station Butana, District Karnal.
2. Custody certificate has been taken on record.
3. Briefly, the FIR was registered on the basis of the statement of Naresh Kumar alleging that on 29.7.2018, Krishan along with his brother i.e. Petitioner (Pawan Kumar), Jasbir Singh @ Jabra and Sunny armed with firearm came towards his brother Suresh. Krishan fired a gunshot with an intention to kill Suresh, who ran inside the shop to save himself. Krishan along with the co-accused followed Suresh in the shop. Gunshots were fired indiscriminately which resulted in the death of Suresh.
4. It has been contended by learned counsel for the petitioner that the firearm injury has not been attributed to the petitioner. He is in custody for a period of more than 4 years. Though the petitioner is involved in another case bearing FIR No. 19 dated 17.01.2019 under Sections 148, 149,

302, 392, 216 & 120-B IPC and Sections 25/54/59 of Arms Act, registered at Police Station Taraori, District Karnal but he is on bail in that case. The charge in the instant case was framed as back as on 23.03.2021 and till date no witness has been examined. The summons are being repeatedly issued to the complainant but the same are being received back unserved with the report that he has gone abroad.

5. Learned State counsel has opposed the bail application on the score that as per the disclosure statement of the petitioner, a pistol has been recovered in another case registered against him. Moreover, the earlier application for bail has been dismissed by a speaking order on 04.09.2020.

6. On a query, it has not been disputed that no firearm injury has been attributed to the petitioner in the instant case.

7. It is significant to note that the petitioner is in custody for a period of more than 4 years and till date no witness has been examined in the instant case. The firearm injury has not been attributed to the petitioner. Although, the earlier application for bail has been dismissed as back as on 04.09.2020 but despite a lapse of period of about 3 years, no witness has been examined till date. As such, sufficient change of circumstances are made out to extend the concession of bail to the petitioner. The speedy trial is a constitutional right provided to an accused under Article 21 of the Constitution of India. The prosecution has to examine 51 witnesses in the instant case and till date no witness has been examined.

8. Keeping in view the entire circumstances emerging in the case, and without making any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing fresh bail bonds/surety bonds to the satisfaction of the concerned

trial Court/Chief Judicial Magistrate/Duty Magistrate.

9. The petition is allowed.

19.07.2023
Janki

(VIVEK PURI)
JUDGE

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