

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

CRM-M-37109-2022 (O&M)
Date of Decision:-**06.02.2023**

YASH

... Petitioner

Versus

STATE OF HARYANA

... Respondent

-.-

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

-.-

Present:- Mr. Rajesh Khandelwal, Advocate
for the petitioner.

Ms. Harpreet Kaur, AAG, Haryana.

-.-

KARAMJIT SINGH, J. (Oral)

Prayer is for grant of regular bail in case having FIR No.40 dated 9.2.2020 registered under Sections 302, 307, 120-B, 216, 34 IPC and Section 25 of Arms Act at Police Station Civil Lines District Hisar.

As per the allegations recorded in the FIR, one Ashok along with present petitioner-Yash and one unidentified boy came on a motorcycle at about 2:15 pm and after stopping their motorcycle they started firing on Suraj Bhaj @ Raju, brother of the complainant, at the time of occurrence one Kuldeep also sustained fire arm injury and then the said persons fled away

from there on the motorcycle. However, Suraj Bhan @ Raju who sustained number of fire arm injuries, died.

The counsel for the petitioner submits that the petitioner has been falsely named in the present FIR and after investigation the only allegation against him is that he did recce on behalf of the main accused Ashok. The counsel for the petitioner further submits that the petitioner is in custody for the last about 2 years and 9 months and during trial material witnesses namely complainant Tej Pal, injured/eyewitness Kuldeep and wife of deceased namely Nisha have retracted from their previous statements and that the copies thereof are available on record. The counsel further submits that it will take considerable time for trial to conclude, so prayer is made for grant of bail to the petitioner as similarly situated co-accused Kapil and Sunil stand enlarged on bail vide orders dated 24.2.2022 and 15.7.2022, respectively.

The instant petition is opposed by the State counsel, who submits that petitioner is one of the assailants who is named in the FIR, who committed murder of Suraj Bhan @ Raju and also injured one Kuldeep. However, the State counsel on instructions SI Sahib Ram has not refuted the fact that petitioner is in custody since last 2 years and 9 months and complainant Tej Pal, injured/eyewitness Kuldeep and wife of deceased namely Nisha have not supported the case of prosecution. However the State counsel further submits that the petitioner is having criminal history as has been detailed in the custody certificate.

The counsel for the petitioner submits that the petitioner has been enlarged on bail in the all the other criminal cases mentioned in the custody certificate.

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

Admittedly the petitioner is in custody for the last 2 years and 9 months. It appears that during trial, complainant Tej Pal, injured/eyewitness Kuldeep and wife of deceased namely Nisha while appearing in the witness box are declared hostile witnesses and they have not supported the case of prosecution.

In the given circumstances, no purpose is going to be served by prolonging the judicial custody of the petitioner for indefinite period as termination of trial will take considerable time.

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.

06.02.2023
Gaurav Sorot

(KARAMJIT SINGH)
JUDGE

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No