

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-39355 of 2020(O&M)
Date of Decision: 29.03.2023

Ashish @ Ashu

...Petitioner

Versus

State of Haryana

...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. Sukesh K. Jindal, Advocate
For the petitioner.

Mr. Naveen Kumar Sheoran, DAG Haryana.

KARAMJIT SINGH, J.

The present petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case having FIR No. 33 dated 28.01.2017, registered under Sections 323, 332, 353, 365, 395, 307 and 302 IPC and Section 25 of Arms Act at Police Station Sadar, Sonipat.

According to the prosecution version on 27.01.2017 the petitioner and his companions namely Paramjeet @ Pamma, Amarjit, Tobar, Amit, Sumit and Nitin caused injuries to Takdir son of the complainant near bus stop of the village and then they fled away from there. Injured Takdir was brought home on the advice of the police, to take action against the aforesaid persons on the next morning. However, in the mid night, 4 assailants, two of them were addressing each other as Sumit and Nitin entered the house of the complainant by scaling wall and attacked the

inhabitants of said house with firearms and Sandeep nephew of complainant died on account of the firearm injury sustained by him at the time of aforesaid occurrence. During investigation of the case, the petitioner was arrested alongwith other accused persons on 10.09.2017.

The counsel for the petitioner, *inter alia*, contends that the petitioner has been falsely implicated in the present case and no fatal injury is attributed to the petitioner who is in custody for the last more than 05 years and 06 months. The counsel for the petitioner further submits that during investigation no firearm was recovered from the petitioner and that the material witnesses are already examined but it will take considerable time for the trial to conclude. The counsel for the petitioner further submits that in all the other criminal cases which were registered against the petitioner, he stands acquitted. So, prayer is made that the petitioner be released on regular bail as already 12 other accused persons are enlarged on bail by different Courts.

The present petition is resisted by the State counsel who, on instructions from ASI Ashok, submits that the petitioner and his companions all armed with deadly weapons trespassed into the house of the complainant and caused firearm injuries to different persons including Sandeep, who was shot dead at the spot. However, the State counsel has not disputed the fact that the petitioner was arrested in the present case on 10.09.2017 and during trial the complainant and other material witnesses are examined and in total 32 witnesses have been examined out of total 50 witnesses on behalf of the prosecution. The State counsel has also not disputed that fatal shot which resulted into death of Sandeep is not specifically attributed to the present petitioner and that no weapon/ firearm was recovered from the possession of the petitioner during investigation of the case.

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

In the present case the petitioner was arrested on 10.09.2017 and thus is in custody for the last more than 05 years and 06 months and during investigation no firearm was recovered from his possession by the police. As has been submitted by the State counsel, fatal injury caused to Sandeep is not specifically attributed to the present petitioner. The complainant and other material witnesses are stated to be examined during the trial, so there is no apprehension that if released on bail the petitioner is going to influence them. From the perusal of Annexures P-1 to P-4, it appears that co-accused Ravinder @ Tobar, Paramjeet @ Pamma, Manjeet and Lalit @ Sumit are already granted concession of regular bail by this Court. As has been apprised by the State counsel, still 18 more witnesses remain to be examined on behalf of the prosecution. So, it will take considerable time for the trial to terminate. 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 present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

29.03.2023
Jiten

(KARAMJIT SINGH)
JUDGE

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