

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-40600-2022
Date of Decision:-21.03.2023

MOHIT

... Petitioner

Versus

STATE OF HARYANA

... Respondent

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CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

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Present:- Mr. Rakesh Kumar Lathwal, Advocate and
Mr. Man Mohit Malik, Advocate
for the petitioner.

Mr. Naveen Kumar Sheoran, DAG, Haryana.

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KARAMJIT SINGH, J. (Oral)

Prayer is for grant of regular bail in case having FIR No.166 dated 20.11.2021 registered under Sections 302/34 IPC (Sections 120-B, 212, 341 IPC added later on) and Section 25 of Arms Act at Police Station Moohana District Sonipat.

The allegations in nut-shell are that complainant-Sarita reported to the police that on 20.11.2021, her son Atender (deceased) left for his office after disclosing to her that Dinesh, Sandeep @ Kaana are threatening to kill him and thereafter complainant received information that car of her

son was intercepted and complainant received information that when her son was going in his car, one another car having having 3-4 boys came from behind and started firing and her son received 4-5 bullet injuries and Sandeep @ Choti who reached the place of occurrence took injured Atender to nearby hospital from where he was shifted to PGI Khanpur where injured Atender was declared dead.

The counsel for the petitioner submits that the petitioner was not named in the FIR and as per prosecution version his name was disclosed by Sandeep @ Choti who witnessed the occurrence. The counsel for the petitioner further submits that said Sandeep @ Choti while appearing in the witness-box as PW-1 has not supported the case of prosecution and the copy of his statement is Annexure P-1. The counsel for the petitioner further submits that in the present case the petitioner was arrested and is behind bars for the last 1 year and 3 months and as per police only one car was recovered from his possession. The counsel for the petitioner further submits that entire case is based on circumstantial evidence and complainant and other material witnesses are examined. That as stated above alleged eye-witness Sandeep @ Choti has retracted from his previous statement while complainant simply alleged that the present petitioner was also involved in murder of her son Atender and copy of her testimony is already placed on the record. The counsel for the petitioner further submits that it will take considerable time for the trial to conclude so no useful purpose is going to be served by keeping the accused behind the bars for any longer period.

The instant petition is resisted by the State counsel, who submits that during investigation it was found that the petitioner was also

found involved in murder of Atender and to this effect Sandeep @ Choti made disclosure statement and thereafter the petitioner was arrested and car used in the commission of offence was recovered at his instance by the police. However the State counsel has not disputed the fact that during trial main witness Sandeep @ Choti has not supported the case of prosecution and even the complainant while appearing in the witness box has not made any specific allegations and further the petitioner is having no criminal history.

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

Admittedly the petitioner was not named in the FIR and was named as accused only on the basis of disclosure statement of Sandeep @ Choti who is alleged to have witnessed the occurrence in question. As per the custody certificate furnished by the State counsel the petitioner is in custody since last 1 year and 3 months and during investigation no weapon was recovered from the possession of the petitioner and it is stated that only one car was recovered at his instance. From the perusal of Annexure P-1 it appears that star witnesses Sandeep @ Choti is declared hostile as he has not supported the case of prosecution. Even the complainant while appearing in the witness box has not made any specific allegations against the petitioner. No doubt the trial is going on but it will take considerable time for the trial to conclude and the petitioner who is having no criminal history is incarcerated for a period of more than 1 year and 3 months. In the given circumstance no purpose is going to be served by prolonging the judicial custody of the petitioner for any indefinite 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.

21.03.2023
Gaurav Sorot

(KARAMJIT SINGH)
JUDGE

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