

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-52354-2022

Date of Decision: 26.5.2023

Vinod Pannu @ Kana

....Petitioner

VERSUS

State of Haryana

....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Pradeep Duhan, Advocate
for the petitioner.

Mr. Vishal Kashyap, DAG, Haryana.

KARAMJIT SINGH, J. (Oral)

CRM-24247-2023

Allowed as prayed for and documents Annexures P-5 to P-7 are
taken on record subject to all just exceptions.

Main case

Prayer in the present petition under Section 439 of Code of
Criminal Procedure is for grant of regular bail to the petitioner in case FIR
No.463 dated 18.10.2016 registered for the offences punishable under
Sections 302, 34 IPC and Section 25 of Arms Act at Police Station
Narnaund, District Hisar.

2. As per the allegations appearing in the FIR on 18.10.2016 at
about 7.00 P.M. complainant Rajender was going back to his home from the
side of Shree Ram Mandir and his brother Pawan @ Tinku was going ahead

of him at some distance, in the meantime, three boys riding on a motorcycle came from side of village Bakhilana and started firing at his brother Pawan @ Tinku, on which his brother tried to save himself by running away but the assailants chased him and fired 5-6 fire arm shots which hit his brother and then the said assailants fled away from spot. Pawan @ Tinku died at the spot.

3. Counsel for the petitioner *inter alia* contends that FIR in this case was registered against 3 unknown persons who killed Pawan @ Tinku and that during investigation, co-accused Naresh was arrested and he made disclosure statement against co-accused Amit and further, on the basis of second disclosure statement of said Amit, the petitioner was named as accused and brought on production warrant and formally arrested in this case on 18.3.2018; that during investigation, no incriminating article was recovered from possession of the petitioner and further, aforesaid co-accused Amit is already granted regular bail by this Court vide order dated 23.5.2022 (Annexure P-4). He further submits that as per prosecution version, the petitioner supplied firearms to co-accused Amit who used the same in the murder of Pawan @ Tinku. He further submits that the petitioner is in custody for the last more than 5 years and 2 months and during trial, material witness namely complainant-Rajinder Singh and eye witness Pawan Kumar have turned hostile and copies of their testimonies are Annexures P-5 and P-6. He further submits that it will take considerable time for trial to conclude. So, prayer is made that the petitioner be released on regular bail.

4. Present petition is resisted by the State counsel who on instructions from SI Surjit Singh submits that the petitioner is having

criminal history and in the instant case, the petitioner supplied one country made pistol and 8 live cartridges to co-accused Amit who used the same to kill Pawan @ Tinku. However, State counsel has not disputed the fact that the petitioner was not named in the FIR and was later on, named as accused on the basis of the disclosure statement made by co-accused Amit and is in custody since 18.3.2018 and further, the complainant while appearing in the witness box has not supported the case of the prosecution. State counsel has also not refuted the fact that co-accused Amit is granted regular bail by this Court vide order Annexure P-4.

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

6. Admittedly, in the instant case, FIR was registered against unknown persons who shot dead Pawan @ Tinku. The petitioner was later on named as accused on the basis of the disclosure statement made by co-accused Amit and veracity and admissibility of the said disclosure will be tested during trial. During investigation, no incriminating article was recovered from possession of the petitioner. The petitioner is in custody for the last more than 5 years and 2 months and the complainant has failed to support the case of the prosecution as is evident from Annexure P-5. Co-accused Amit is already granted regular bail by this Court vide order Annexure P-4. In view of the fact that the complainant/eye witness has failed to support the case of the prosecution, no purpose is going to be served by keeping the petitioner in custody for any longer period.

7. In view of the above, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail bonds/surety bonds to

the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

(KARAMJIT SINGH)
JUDGE

May 26, 2023
Paritosh Kumar

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