

211

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

**CRM-M-52296-2022
Date of decision : 08.11.2023**

AAKASH ALIAS ASHU

....Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Parveen Kaushik, Advocate
for the petitioner.

Mr. A.K. Sehrawat, DAG, Haryana.

PANKAJ JAIN, J. (ORAL)

This petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case F.I.R. No.0275 dated 26.08.2020 registered for the offences punishable under Sections 302, 34 of the Indian Penal Code and Section 25 of 54 of Arms Act, 1959 and at Police Station Beri, District Jhajjar.

2. Custody Certificate of the petitioner has been filed today in Court. The same is taken on record.

3. As per the contents of the FIR it has been alleged as under :

“xxx it is requested Bijender S/o Kishanlal is R/O Biathan pana Beri and do work of farming. We are 4 brother, eldest is Rajbir then Deverder and then Nafhe and I am youngest one. Nafhe elder to me has one son Sonu and has one daughter, Sonu

@ Deepak is aged of near about 20 years. Deepak S/o Surender @ Lala R/O Biathana pana village Beri called my nephew Sonu @ Deepak yesterday evening time near about 6.00PM from house. 3 friends Pankaj S/o Jaibhagwan, Ashu S/o Ballu of Birdhana and other persons were also there with with Deepak S/o Surender @ Lala. They all took Sonu @ Deepak in the fields which is situated at Kalanaur road near to canal. They call their friends by making calls, then made fire shot to our boy. I went to field to see my nephew then I saw 4-5 boys running, I reached to the fields then I saw that my nephew had been hit fire shoot. He was dead on the spot. I got panicked and came back home then told the whole thing to family members then my family reached there and informed to police and police reached on the spot and made inquiry, I gave application to the police on the spot. Legal action may kindly be taken against them.xxx”

4. Counsel for the petitioner relies upon testimony of Bijender who appeared as PW-2 to submit that the complainant while appearing as PW2 did not name the petitioner as one of the accomplices. As per the prosecution the role assigned to the petitioner is based upon disclosure made by Parminder who claimed that it was the petitioner who agreed to supply the weapon. Counsel further submits that apart from the aforesaid role stated to have been attributed to the petitioner that too on the basis of disclosure made in police custody there is nothing incriminating against the petitioner. The petitioner is behind bars for more than 3 years.

5. The aforesaid assertions made by counsel for the petitioner are not disputed by the State Counsel. However, it has been submitted that the petitioner has a history of being involved in number of cases including

those under the Arms Act.

6. Faced with the situation counsel for the petitioner relies upon **'Prabhakar Tewari vs. State of UP and another', 2020 (1) RCR (Criminal) 831** to submit that the involvement of the petitioner in several more cases cannot be a ground to deny bail. Further reliance has been placed upon **'Maulana Mohd. Amir Rashadi vs. State of UP (SC)', (2012) 2 SCC 382.**

7. I have heard counsel for the parties and have gone through records of the case.

8. In view of above, without commenting on the merits of the case and keeping in view the incarceration already suffered by the petitioner, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

9. Needless to say that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

November 08, 2023
Dpr

(Pankaj Jain)
Judge

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