

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

**CRM-M-52865-2022
Date of Decision: 20.07.2023**

Arun @ Chhavani

...Petitioner

vs.

State of Haryana

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. Akashdeep Singh, Advocate
for the petitioner.

Ms. Sheenu Sura, DAG, Haryana.

N.S.Shekhawat J. (Oral)

The petitioner has filed the instant petition under Section 439 of the Cr.P.C. with a prayer to grant a regular bail in case FIR No.204 dated 04.06.2020 registered under Sections 302, 34 of IPC and Section 25 of Arms Act (Challan under Sections 120-B, 302, 34 of IPC and Sections 25, 54, 59 of Arms Act), at Police Station Arya Nagar Rohtak, District Rohtak.

The FIR in the present case was registered on the basis of the statement made by Amit, complainant. As per him, his elder brother Joginder @ Juggi was convicted in a murder case and was undergoing the imprisonment. He was ordered to be released on parole in the said case. On 04.06.2020, Joginder had gone out in his car for some work and returned at about 3.30 pm. The complainant heard the noise of some gun shots being fired in the street and he rushed outside. The complainant saw that Sonu son of Rajender Kapoor @ Tittu, Raman son of Rajender and 3/4 assailants were firing

shots on his brother Joginder. After getting down from the car, his brother Joginder rushed towards Ramleela ground and the assailants chased him. Joginder fell down after suffering the gun shots and the complainant raised cries to save him. As per the complainant, the assailants fled the spot on the Acura and motorcycle and they shifted his brother Joginder to PGIMS, Rohtak for treatment, where he was declared dead. Due to old enmity, his brother has been murdered by the above named accused and certain unknown persons.

Learned counsel for the petitioner contends that he has been falsely implicated in the present case due to some old enmity. He further contends that he was not named in the FIR and was named by Sonu @ Anil in his disclosure statement. During the course of investigation, a country made pistol along with one .12 bore fired cartridge was shown to have been recovered from the petitioner. However, as per the FSL report, no fired bullets recovered from the dead body or any fired cartridge recovered from the spot matched with the weapon recovered from the present petitioner. He further contends that Raman, who was specifically named as accused in the present FIR, has been granted the concession of bail by this Court on 14.09.2022 passed in CRM-M-3024-2021. Even co-accused Santosh, who was implicated with the aid of Section 120-B of IPC, has also been granted the concession of bail by the learned trial Court. Learned counsel further contends that he is in custody since 10.06.2020 i.e. approximately for 03 years and 01 month and his further custody will serve no meaningful purpose.

Learned State counsel has vehemently opposed the prayer made by the present petitioner on the ground that a country made pistol and fired

cartridge have been recovered from him. She further contends that two more FIRs i.e. FIR No.46, dated 04.02.2019, under Sections 323, 34, 506 of IPC, Police Station PGIMS, Rohtak and FIR No.233 dated 22.04.2021, under Sections 148, 149, 323 of IPC and 42 of Prisons Act, Police Station Shivaji Colony, Rohtak have been registered against the present petitioner. However, she does not dispute the fact that the petitioner is on bail in those two cases and the offences in the said cases were under Section 323 IPC only.

I have learned counsel for the parties and perused the record with their assistance.

It is not in dispute that the petitioner was arrested in the present on 10.06.2020 and is in custody for the last about 03 years and 01 month. In the present case, only 06 witnesses have been examined, out of total 33 witnesses and further custody of the petitioner will serve no meaningful purpose.

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/Duty Magistrate/Chief Judicial Magistrate, concerned.

20.07.2023
hemlata

(N.S.SHEKHAWAT)
JUDGE

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