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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

208

CRM-M-15760-2024
Date of decision : 10.04.2024

Sunil Petitioner

versus

State of Haryana Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Manish Soni, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

PANKAJ JAIN, J. (Oral)

1. Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.053 dated 23.02.2018, registered for the offences punishable under Sections 302, 34 of IPC, 1860 and Sections 25, 54 and 59 of the Arms Act, 1959 IPC, at Police Station Bilaspur, District Gurugram.
2. Report from the concerned quarter has been received. The same is taken on record.
3. As per the allegations levelled in the FIR, it has been alleged as under:-

“To The SHO P.S. Bilaspur, Gurugram. Sir, it is requested that I, Jag Parvesh s/o Bhagwat Yadav, am resident of Bas Lambi. On the night of 22.02.2018, there was Kuan Pujan ceremony of Anil's son, the younger brother of Sunil s/o Dharmender in our village. My son Govardhan had also joined that programme. At about 10:00 or

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10:30 in the night, Sunil s/o Dharmender resident of Baslambi made a telephone call on the phone of Surat resident of Baslambi that Govardhan has been hurt, reach soon. At this I, Surat reached in front of the Sunil's house where Govardhan aged 22 years was lying on the drain in front of Sunil's house. Then I, Charan Singh S/o Suresh resident of Kharkhri and **Sunil picked up Govardhan** and after arranging a vehicle shifted him to Rathore Hospital IMT Manesar where the doctor on seeing him advised to take him to Rockland Hospital IMT Manesar. Then we got admitted Govardhan at Rockland Hospital. Then, Anil S/o Mahender of our village informed me telephonically about the injury of Govardhan. On which information I reached at Rockland Hospital Manesar where I saw my son Govardhan. My son Govardhan had already died and had received a fire shot injury on the left side of his chest. My son Govardhan had died due to fire shot injury and I am fully convinced that Sunil & Anil sons of Dharmender resident of Baslambi has fired shot on my son. I can say with full faith that my son has been murdered by Sunil & Anil by firing shot. Legal action be taken against them.xxx”

4. Counsel for the petitioner submits that it is a case of celebratory fire and the petitioner was host. Thus, *mens rea* cannot be attributed and it will be highly debatable whether the petitioner can be held guilty of culpable homicide amounting to murder. Further submits that the petitioner is behind bars for more than 06 years, 01 month and 13 days and the trial is lingering since 31.02.2022 when the statement under Section 313 Cr.P.C. of the petitioner was recorded.

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5. Bail plea is opposed by the State Counsel to submit that the case involves loss of precious life. Pistol has been recovered from the petitioner which has matched as per the ballistic report.
6. Having heard rival contentions of the parties, keeping in view the nature of allegations and the fact that that issue whether the death would constitute culpable homicide amounting to murder is seriously in issue and the incarceration suffered by the petitioner, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.
7. Needless to say nothing recorded herein shall be construed to be an expression of an opinion on the merits of the case.

(PANKAJ JAIN)
JUDGE

10.04.2024
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No