

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.**CRM-M-57849-2023****Date of Decision: 20.3.2024**

Vineet

....Petitioner**VERSUS**

State of Haryana

....Respondent**CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH**

Present: Mr. Vishal Yadav, Advocate, for the petitioner.
Mr. Vishal Kashyap, DAG, Haryana

KARAMJIT SINGH, J.

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.753 dated 11.12.2021 registered for the offences punishable under Sections 302, 34 IPC and Section 27 of Arms Act at Police Station City Palwal, District Palwal.

2. As per allegations appearing in the FIR, deceased-Rajbir and his friend Rohit were present near Sona Road. In the meantime, Yash Tewari and one unknown person reached there on a motorcycle and then Yash Tewari fired pistol shot which hit in the chest of Rajbir which resulted in his death and then Yash Tewari and his accomplice (an unknown person) fled away from there on a motorcycle. During investigation, the petitioner was named as accused and arrested on 15.12.2021. On completion of investigation, the police presented challan against both the accused.

3. Counsel for the petitioner submits that the petitioner was not named in the FIR and later on, arrayed as accused; that the petitioner is in custody for the last about 2 years and 3 months and is having no criminal history and during investigation, no incriminating article was recovered

from possession of the petitioner. It is further submitted that as per prosecution version, the petitioner was simply accompanying co-accused Yash Tewari and no other specific act is attributed to the petitioner and the weapon used in the commission of the crime is stated to be recovered at the instance of the co-accused Yash Tewari. Counsel for the petitioner further submits that all the material witnesses are examined but it will take time for the trial to conclude; that thus, no purpose is going to be served by keeping the petitioner in custody for any longer period.

4. Status report by way of affidavit of Dinesh Kumar, DSP, Palwal filed on behalf of the State is ordered to be taken on record along with Annexures R-1 to R-4.

5. Present petition is resisted by the State counsel who on instructions from ASI Kuldeep submits that at the time of occurrence, the petitioner was accompanying main accused Yash Tewari who caused firearm injury to Rajbir which resulted in his death. State counsel has not disputed the fact that the petitioner is in custody for the last more than 2 years and 3 months and is not involved in any other criminal case and that complainant-Raj Kumar brother of the deceased, another eye witness Rohit and wife of the deceased namely Bhawna are examined during trial but it will take time for the trial to terminate. State counsel has also not disputed the fact that firearm used in the commission of the crime was recovered at the instance of co-accused Yash Tewari and that no weapon was recovered from possession of the petitioner.

6. Status report dated 13.3.2024 submitted by the trial Court is taken on record along with copy of deposition of PW9-Rohit.

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

parties.

8. Undisputedly, the petitioner was not named in the FIR and was later on, named as accused and arrested by the police and is in custody for the last about 2 years and 3 months and is having no criminal antecedents. Case of the prosecution is that co-accused/Yash Tewari fired fatal shot which resulted in the death of Rajbir while the petitioner was accompanying him. The complainant, while appearing in the witness box as PW6, failed to identify the petitioner as is evident from his statement Annexure P-3. Even Bhawna and Rohit while appearing in the witness box attributed fatal firearm shot to co-accused/Yash Tewari and simply stated that the petitioner was accompanying him at the time of occurrence. It is a subject matter of trial as to whether liability of the petitioner could be fastened under Section 302 IPC with the aid of Section 34 IPC. It will take considerable time for the trial to conclude. Further, as material witnesses are already examined, there is no apprehension that if released on bail, the petitioner is going to influence them. In the given circumstances, no useful purpose is going to be served by prolonging the judicial custody of the petitioner.

9. 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

March 20, 2024
Paritosh Kumar

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