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

CRM-M-5377-2025

Date of Decision: 26.05.2025

Harkaran Singh alias Karan

...Petitioner

vs.

State of Haryana

...Respondent

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

Present : Mr. Atul Lakhanpal, Senior Advocate with
Ms. Shikha Charak, Advocate
for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the instant petition under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 with a prayer to grant regular bail in case FIR No.245 dated 07.10.2021 registered under Section 25 of Arms Act and Sections 302, 34 of IPC, at Police Station Bhuna, District Fatehabad.
2. The FIR in the present case was registered on the basis of the statement made by Somnath son of Hari Chand and the same has been reproduced below:-

“Statement of Somnath S/o Hari Chand R/o Khasa Pathana and aged 63 years states that I am the resident of above mentioned address and I am an agriculturist. I have two sons elder one is Rajesh @ Raja and younger one is Pankaj Kumar. Both are married. Yesterday dated 06.10.2021 me and my son Pankaj Kumar were travelling in our car No. HR- 23-G-4184 colour white from our Bhuna office to our village Khasa Pathana via Sanchla Road. Car was driven by my son Pankaj Kumar and I was sitting

on the side seat. At night around 10:15 PM when we reached near the plot of Balraj S/o Diwan Singh R/o Khasa Pathana our car got punctured then my son Pankaj Kumar stepped out of car to check the tyres in the meantime a motorcycle come from the behind upon which 2-3 unidentified young men were riding one of them wearing helmet and were carrying pistols. They started abusing my son and suddenly started firing upon my son Pankaj from the pistol which they were carrying. That out of fear my son Pankaj Kumar started running through the plot of Balraj towards the fields then those unidentified persons started indiscriminately firing upon my son Pankaj Kumar that my son Pankaj Kumar fell down in the fields due to bullet injury and those unidentified persons ran away from the spot with their weapons and motorcycle. Then I raised the alaram and the people from the neighbourhood gathered at the spot who took my son for treatment to the Govt. Hospital, Bhuna after arranging the vehicle where doctor declared my son dead. I got unconscious after seeing the painful death of my son. Now I have gained the consciousness and got my statement recorded that my son Pankaj Kumar was murdered by unidentified persons by making bullet injury. That strict legal action to be taken against unidentified persons. That I have got my statement recorded read and understood which is correct. Sd/-Somnath.”

3. Learned counsel for the petitioner contends that the petitioner has not been named in the FIR by the complainant and was nominated as an accused on the basis of the disclosure statement suffered by his co-accused. Even it is a case based on circumstantial evidence, however, from the perusal of the evidence collected during the course of investigation, it is apparent that the change of circumstanes could not prove the involvement of the petitioner in the present case. Even, it has been alleged that the petitioner had fired from

pistol, however, there is no FSL report with regard to the use of pistol by the petitioner in the present case. The petitioner was arrested in the present case on 27.06.2022 and is in custody for the last almost 03 years. Even the prosecution has been examined only 12 witnesses, out of total 42 witnesses and the complainant as well as the other material witnesses have been examined by the prosecution. Thus, it cannot be stated that the petitioner is in a position to influence the material witnesses of the prosecution.

4. On the other hand, learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner on the ground that serious allegations have been levelled against the petitioner. However, he could not dispute the factual submissions made by learned counsel for the petitioner.

5. I have heard the learned counsel for the parties and perused the record.

6. In the present case, the case rests on eye-witness account, but the petitioner was not specifically named by him. Even the FIR was got registered by the complainant after a delay of about 12 hours. Thus, the prosecution is yet to lead evidence with regard to the involvement of the petitioner in the crime. Moreover, the petitioner is in custody for the last 03 years and the complainant as well as the eye-witness have already been examined by the prosecution.

7. 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, subject to the following conditions:-

- (i) *The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him to disclose such facts to the Court or to any other authority.*
- (ii) *The petitioner shall remain present before the Court on the dates fixed for hearing of the case.*
- (iii) *The petitioner shall not absent himself from the Court proceedings except on the prior permission of the Court concerned.*
- (iv) *The petitioner shall surrender his passport, if any, (if already not surrendered), and in case he is not holder of the same, he shall swear an affidavit to that effect.*
- (v) *The petitioner shall also file his affidavit before the concerned Court, mentioning his ordinary place of residence and number of mobile phone, which shall be used by him during the pendency of the trial. In case of change of place of residence/mobile number, he shall share the details with the concerned Court/learned Trial Court.*
- (vi) *In case, the petitioner involves in any other criminal activity, during the pendency of the trial, it shall be viewed seriously.*
- (vii) *The concerned Court may insist on two heavy local sureties and may also impose any other condition, in accordance with law, while accepting the bails bonds and surety bonds of the petitioner.*

(N.S.SHEKHAWAT)
JUDGE

26.05.2025
hemlata

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