

CRM-M-42578-2024

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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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CRM-M-42578-2024 (O&M)
Date of decision: 04.02.2025

Yash Tiwari

... Petitioner

Vs.

State of Haryana

.... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present :- Mr. Balraj Gujjar, Advocate and
Mr. Ramesh Chand, Advocate for the petitioner.

Mr. Rajbir Singh, DAG, Haryana.

SUVIR SEHGAL J. (ORAL)

1. Instant third petition has been filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, seeking grant of regular bail to the petitioner in:-

FIR No.	Dated	Police Station	Section
753	11.12.2021	City Palwal, Distt. Palwal (Haryana)	302, 34 of IPC and 25 of Arms Act, 1959

2. Case of the prosecution is that FIR, Annexure P-1, has been registered on the statement of Raj Kumar, wherein he stated that on 11.12.2021 at about 1:00 P.M., when his brother, Rajbir, was standing near Propex City Channel on Sohna Road with his friend, Rohit, two boys came on a motorcycle. Yash Tiwari, present petitioner, fired at Rajbir with his pistol. On hearing the gun shot, complainant, who was

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working in a field nearby, rushed to the spot when both, Yash Tiwari and his fat friend, sped away. Rajbir was immediately shifted to a hospital, but was declared brought dead.

3. Counsel for the petitioner submits that the previous two petitions were rejected by this Court vide orders dated 10.08.2023 and 19.04.2024. The first petition was rejected on the ground that the complainant, Raj Kumar, as well as eye-witness, Rohit, have not been examined. While referring to the testimony of the complainant, Raj Kumar (PW-6), which has been appended at Annexure P-2, with the petition, counsel contends that he has not supported the case of the prosecution in as much as he has categorically stated that the petitioner is not the assailant. Reference has also been made by the counsel to the testimony of Rohit, PW-9, eye-witness and an argument has been raised that Rohit has implicated the petitioner as he has a personal enmity with the petitioner. Counsel asserts that the petitioner, who is a young man with a clean past, is in custody since 12.12.2021 and he deserves to be released on bail as there is a remote possibility of an early conclusion of trial.

4. On the other hand, learned State counsel has opposed the petition by submitting that there are direct allegations against the petitioner, who is accused of a cold blooded murder. He has filed the custody certificate dated 01.02.2025 and states that 17 out of 25 prosecution witnesses have been examined. State counsel is not in a position to dispute that both the vital witnesses have already stepped into the witness box.

5. Having heard counsel for the parties, this Court, *prima facie* is of the view that the petitioner is entitled to be released on bail. Petitioner has been in detention for the last 37 months. Both the material prosecution witnesses have been examined and one of them has not identified the petitioner. Prosecution is yet to examine 8 more witnesses and the trial is not likely to conclude in near future.
6. Without adverting to the merits or demerits of the arguments addressed by counsel for the parties, petition is allowed and the petitioner is ordered to be released on bail on furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.
7. It is clarified that nothing mentioned hereinabove shall be construed to be an expression of opinion on the merits of the case.

04.02.2025
pooja saini

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No