

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl. Misc. No. M-41446 of 2014

DATE OF DECISION: 09.02.2015

Vijay

.....Petitioner

Versus

State of Haryana

.....Respondent

BEFORE:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

- 1. Whether reporters of local newspaper may be allowed to see judgment?**
- 2. To be referred to reporters or not?**
- 3. Whether the judgment should be reported in the Digest?**

Present:- Mr. Rakesh Nehra, Advocate
for the petitioner.

Mr. Deepak Sabharwal, Addl. A.G., Haryana.

DAYA CHAUDHARY, J.

The present petition under Section 439 Cr.P.C. has been filed for grant of regular bail to the petitioner in case FIR No. 238 dated 16.7.2012 registered under Sections 302/120-B/34/201 IPC and Section 25 of the Arms Act at Police Station Sadar, District Rohtak.

Learned counsel for the petitioner contends that the petitioner has falsely been implicated in this case as neither his name has figured in the FIR nor he has any connection with the offence in any manner. Learned counsel further contends that the petitioner has been implicated in this case only on the basis of disclosure statement made by co-accused, namely, Sunil @ Chun, wherein, no role has been attributed to him. Learned counsel also submits that co-accused of the petitioner, namely, Deepak has also approached this Court by way of filing Crl. Misc. No. M-8886 of 2014 and has been granted regular bail. The petitioner is in

custody since 9.3.2013 and no purpose would be served by keeping him behind the bars.

Learned counsel for the respondent-State submits that case of the petitioner is not at par with co-accused, who has been granted bail by this Court as not only he was implicated on the basis of disclosure statement but recovery was also effected from him. Learned counsel further submits that the petitioner has fired the shot but it missed the aim. Learned counsel also submits that the petitioner is also habitual offender as four cases are there against him and he has been convicted in all the cases. It is also the submission of learned State counsel that still certain material witnesses are yet to be examined.

Heard the arguments advanced by learned counsel for the petitioner and have also gone through the contents of the FIR and other documents available on the file.

Although name of the petitioner was not mentioned in the FIR but subsequently he has been found to be involved in the case on the basis of disclosure statement made by main accused, namely, Sunil @ Chun. As per case of the prosecution, co-accused Yogesh @ Bablu has brought the weapon of offence, which was handed over to co-accused Deepak as well as present petitioner. The car was also recovered from the possession of Yogesh @ Bablu, which was used in commission of offence. A perusal of affidavit filed by Deputy Superintendent of Police, Rohtak in Court today, shows that the petitioner has been convicted in four cases, details of which are given as under:-

Sr. No.	FIR/Date	Under Section	Police Station	Decision
1.	161/01.08.2010	353/307/34 IPC & 25/54/59 Arms Act	Sadar Gohana, District Sonipat.	Undergone and fine of rupees 2000/- by the learned Court of Sh. Jagdeep Singh, ASJ, Sonipat on 24.2.2014.

Sr. No.	FIR/Date	Under Section	Police Station	Decision
2.	79/17.3.2013	174-A IPC	Sadar, Distt. Rohtak	Undergone by the learned Court of Smt. Anita Dahiya, ACJM, Rohtak on 27.3.2013.
3.	66/09.03.2013	411 IPC & 25/54/59 Arms Act	Dwarka North, New Delhi	Undergone and fine of rupees 5000/- by the learned Court of Sh. Babrubhan, Metropolitan Magistrate, Dwarka, New Delhi on 6.1.2015.
4.	130/07.4.2010	302/303/307/120-B/216/343 IPC and 25/54/59 Arms Act	City Gohana, Distt. Sonipat	Imprisonment for a period of two years and six months for offence punishable under Section 302 IPC. Imprisonment for a period of one year for the offence punishable u/s 307 IPC by the learned Court of Sh. Surya Chander Kant, Principal Magistrate Juvenile Justice Board, Sonipat on 19.12.2014

Out of total 18 prosecution witnesses, only 10 have been examined and some other material witnesses are yet to be examined. Moreover, the case of the petitioner is at par with main accused-Sunil who is also behind the bars and in case any recovery is effected on the basis of disclosure statement then it cannot be said that disclosure statement is inadmissible under law.

Keeping in view the seriousness of offence as well as the past conduct of the petitioner as he has been convicted in four cases including cases under Sections 307/302 IPC, no ground is made out to grant bail to the petitioner and the petition being devoid of any merit is hereby dismissed.

February 09, 2015
pooja

(DAYA CHAUDHARY)
JUDGE