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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-28377-2017
Date of Decision: 29.08.2017

Shadi Khan @ Sadi

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. Sarfraj Hussain, Advocate,
for the petitioner.

Mr. Vikas Malik, DAG, Haryana.

Mr. Abhishek Goyal, Advocate,
for the complainant.

SUDIP AHLUWALIA J. (ORAL)

Heard both sides.

[2]. This is a petition seeking regular bail on behalf of the petitioner Shadi Khan @ Sadi, who has been in detention since 08.03.2017 in connection with FIR No.79 dated 25.05.2016, under Sections 147, 148, 149, 323, 302 & 216 IPC and Section 25/54/59 of Arms Act, registered at Police Station Bahin, District Palwal.

[3]. The original Aadhaar Card of the petitioner is tendered for perusal by the Court in compliance of the last order.

[4]. The present petition for bail is opposed on behalf of the State as well as the complainant. It is their submission that this is an extremely serious case involving as many as four murders in which almost 30 or more culprits were involved. Ld. counsel for the complainant has also cited the decision of the Hon'ble Supreme Court in the case bearing *Criminal Appeal*

No.400 of 2016 titled as “**Kattukulangara Madhavan Vs. Majeed and**

others” decided on 30.03.2017 to contend that the presence of the petitioner in the unlawful assembly of the assailants on the relevant date would also have the effect of rendering him liable for conviction along with actual assailants even though no specific role has been attributed to him in the FIR.

[5]. This Court has carefully gone through the FIR. It is seen that four persons died by gun shots fired by several accused persons, one of whom, namely, Yahaya Khan is, admittedly, son of the petitioner. It is also verified that no specific allegation against the petitioner apart from being present among the large group of persons forming the unlawful assembly has been made out in the FIR. It transpires that investigation against the present petitioner is already completed and challan submitted. Admittedly, no recovery of any weapon or incriminating material was made from him. Undisputedly he is an old man aged 79 years as verified from his Aadhaar Card. His presence, at the scene of occurrence, has been tried to be explained by his Ld. counsel by way of the submission that being an elderly person of the village, he was actually attempting to pacify the mob at the time of occurrence. This contention is, of course, a debatable one which would require fact finding which can be done only after regular trial. But in the given circumstances, considering the old age of the petitioner, the fact that no specific role has been attributed to him in the FIR and that no recovery from him was effected, he is found entitled to the relief of bail, at this stage to the satisfaction of Ld. Chief Judicial Magistrate, Palwal.

[6]. Ordered accordingly.

29.08.2017

Bhumika

**(SUDIP AHLUWALIA)
JUDGE**

1. Whether speaking/reasoned: Yes
2. Whether reportable: No