

205

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

CRM-M No.2896 of 2017

Date of Decision: 26.04.2017

SUMIT @ GOURAV @ ROKI

.....Petitioner

Vs

STATE OF HARYANA

....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. Ashish K. Gupta, Advocate
for the petitioner.

Mr. P.P. Chahar, D.A.G., Haryana.

Mr. Saajan Singh, Advocate
for the complainant.

RAJ MOHAN SINGH, J.(Oral)

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.119 dated 06.05.2016, registered under Sections 341, 506, 34 IPC and Section 25, 54, 59 of the Arms Act at Police Station Rai, District Sonipat. Offence under Section 307 IPC was added later on.

FIR was recorded on the statement of complainant Anil who alleged that on 05.05.2016, he and his friend Vijay were coming from the gym at about 9.00 a.m. on the motorcycle of Vijay. When they reached near the field of Ishwar, then two motorcycles without registration number came there. Driver of

the first motorcycle was having muffled face. Mohit was the pillion rider. On the second motorcycle driver was also having muffled face and Nanha was the pillion rider. Mohit opened fire, but the pistol did not work. The complainant and Vijay turned their motorcycle in the field and ran away. They were chased by the motorcyclists and the noise of missing fire was heard by the complainant.

Learned counsel for the petitioner contended that nothing was recovered in the present case. The alleged recovery of pistol and motorcycle in FIR No.164 dated 10.05.2016 under Sections 148, 149, 307 IPC and under Section 25 of the Arms Act is not relatable to the petitioner inasmuch as that the petitioner was not named in the FIR, nor any overt act was attributed to him. As per narration of facts given in the challan, the pistol, if any, allegedly recovered was not used in commission of the crime, either in FIR No.164 and in the present case. The petitioner was alleged to be driver of the first motorcycle only.

Learned counsel further contended that in FIR No.167 dated 12.05.2016 under Sections 398, 401 IPC, the petitioner was sought to be implicated on the basis of disclosure statement *qua* his implication in the present FIR. The petitioner was not arrayed as accused in the said FIR, nor he was

arrested at any point of time. Petitioner was involved in FIR No.213 dated 06.03.2016 under Sections 392, 397 IPC registered at Police Station Moti Nagar, Delhi in which he was granted bail.

Learned State counsel on instructions from ASI Brij Pal submitted that petitioner is also involved for jail offence.

Looking to the aforesaid position, at this stage, without advertng to the merits of the case, since no *prima facie* attribution was made to the petitioner being driver of the first motorcycle, I deem it appropriate to enlarge the petitioner on regular bail.

In view of above, petition is allowed. Petitioner is ordered to be enlarged on bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court.

Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

April 26, 2017.

Atik

**(RAJ MOHAN SINGH)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No