

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-38771 of 2017
Date of Decision: 25.10.2017

Sanjay

....Petitioner

VERSUS

State of Haryana

....Respondent

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Jitender Dhanda, Advocate
for the petitioner.

Mr. Jitender K. Sehrawat, Advocate
for the complainant.

SURINDER GUPTA, J.(Oral)

The present petition has been filed under Section 439 Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No.766 dated 20.08.2017 registered for the offence punishable under Section 307 read with Section 120-B of Indian Penal Code (for short, "IPC") and 25 of the Arms Act, at Police Station Hisar City, District Hisar.

Heard.

Notice of motion.

On asking of the court, Mr. Deepak Grewal, DAG, Haryana, who is present in the Court accepts notice and submits that intimation by Registry informing of fixation of the petition has already been received and record of the case is available with him.

FIR was registered on the statement of Ajay son of Dharamvir, wherein he has stated that on 20.08.2017, he had gone to enquire about the health of *sarpanch* Naresh son of Deva, who was admitted in Surya Hospital, Hisar. Surender, Vikas and Ankit of his village were also present

there. On 19.08.2017 at about 10.15 p.m., Surrender asked complainant to accompany him to Barwala Octroi Post in connection with a job at which he accompanied Surrender, Vikas and Ankit in their Dzire car bearing registration no. HR-20-AA-0868. At about 10.30 p.m., Surrender stopped the car at Chaudhary Dhaba near Barwala Octroi Post towards Sirsa road. When all the occupants of the car alighted, 7-8 persons were also present there. Surrender shook hand with Sukhdev and invited him to have a talk with him. Sukhdev went towards Bolero car while Surrender proceeded towards the *Dhaba*. Sukhdev in order to kill Surrender fired a shot at him at which Surrender laid down on the ground and fire hit his left arm. Complainant and all other persons accompanying Surrender also ran helter skelter. Sukhdev alongwith his companions sped away from the spot in Bolero car.

Learned counsel for the petitioner submits that the petitioner is not named in the FIR and no role has been attributed to him in the occurrence. He has been falsely implicated in this case.

Learned State counsel submits that the petitioner was arrested in this case on 23.08.2017 on the disclosure statement of Sukhdev that he was also present at the spot and was driving the Bolero car in which Sukhdev and his other associates had run away from the spot after the occurrence.

The petitioner is neither named in the FIR nor any role has been attributed to him in the occurrence. There is no allegation that Sukhdev has fired shot at Surrender on his asking or he was assisting Sukhdev during occurrence in any manner. Even the complainant and Sukhdev have also not alleged any enmity of petitioner with the complainant.

In view of above but without expressing any opinion on merits of the case and keeping in view the fact that conclusion of trial will take considerably long time, the present petition is allowed. Petitioner-Sanjay is ordered to be released on regular bail on furnishing bail bond and surety bond to the satisfaction of concerned trial Court/Chief Judicial Magistrate/Duty Magistrate, subject to following terms:-

- (a) The petitioner shall comply with the conditions mentioned in Section 437(3) Cr.P.C.
- (b) In the event of his absence on any date of hearing, the benefit of bail allowed to the petitioner shall stand withdrawn. The trial Court shall be competent to cancel his bail bond and surety bond and proceed to procure his presence in accordance with law. In that eventuality the petitioner shall have to apply for bail afresh.
- (c) He shall not leave the country without the previous permission of the Court.

October 25, 2017
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No