

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

**CRM-M No.10357 of 2018
Date of Decision: 01.05.2018**

Anil @ Khadda @ Maharaj

.....Petitioner

Vs

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. D.S. Matya, Advocate
for the petitioner.

Mr. Satish Saini, D.A.G., Haryana.

RAJ MOHAN SINGH, J.

Petitioner has prayed for grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.277 dated 30.06.2016, registered under Sections 307, 506, 120-B, 34 IPC, Sections 3/33/89 of the SC/ST Act and Section 25 of the Arms Act at Police Station Kherki Daula, Gurugram, Distt. Gurugram.

FIR was registered at the instance of Pyare Lal son of Rattan Lal with the allegations that in the evening of 30.06.2016 at about 6.00 p.m., the complainant was standing in front of Dev Communication, Khedki Daula i.e. the shop owned by Naveen. His brother Mukesh and Ravinder son of Nanak Chand were

sitting in front of the shop. Suddenly, three boys came on a motorcycle. Deepak was driving the motorcycle. Mahesh and Sandeep @ Maharaj were the pillion riders. Sandeep @ Maharaj opened fire with an intention to kill brother of the complainant. He fired three times on his brother. One bullet hit in the stomach of brother of the complainant.

It was further alleged that in the year 2008, there was a dispute with Mahesh son of Satbir and that was the grudge for which brother of the complainant was fired at with an intention to kill him. Three days prior to the occurrence, Joginder son of Dharambir, Mahesh son of Satbir and Monu son of Bheem Singh had also threatened the complainant that they would be done to death.

Learned counsel for the petitioner submitted that the petitioner was never known by the name of Sandeep @ Maharaj, rather his name is Anil @ Khadda.

On being apprised name of the petitioner as shown in memo of parties i.e. Anil @ Khadda @ Maharaj, learned counsel contended that alias name of Maharaj had to be written on account of the name shown in police records.

Learned counsel further contended that charges have been framed and petitioner is in custody for more than 1 year 6

months. In another case of offence under Section 398/401 IPC petitioner is already on bail.

Learned counsel by relying upon CRM-M No.22554 of 2017 titled '*Ravi vs. State of Haryana*' decided on 06.02.2018, contended that even if specific allegations has been made against the petitioner attracting his culpability in terms of Section 306 IPC, yet right of speedy trial cannot be declined to him. Since the petitioner has undergone more than 1 year 6 months of actual custody, therefore, the aforesaid incarceration is sufficient to enlarge him on regular bail, leaving the trial Court to decide the case on merits.

As per prosecution allegations, the petitioner was one of the pillion rider, who had opened fire thrice. In the disclosure statement of co-accused Mahesh and Deepak @ Macchhar, name of the petitioner was shown to be Anil @ Khadda @ Maharaj, who had opened fire upon brother of the complainant.

As per disclosure statement of co-accused Mahesh, who confessed before the Police that his father was murdered by Mukesh son of Rattan Lal, co-accused Pyare Lal and his brother in the year 2008. FIR No.193/2008 under Section 302 IPC was registered and the accused were convicted. They were granted bail by the High Court. After their release on bail, accused were threatening the co-accused. The co-accused

wanted to take revenge from Mukesh and his co-accused. Friend of Mahesh namely Deepu @ Machhar got him introduced with the petitioner, who was living in the house of Jaswant Yadav along with his cousin Yogesh. Mahesh and Deepak came to know that the petitioner is in possession of unauthorized arms and had made interaction with gangsters. They became good friends. Thereafter, petitioner became ready to murder Mukesh. On 30.06.2016, co-accused Mahesh along with Deepak and the petitioner made plan to murder Mukesh along with his friend Sonu. Thereafter the present occurrence came to be committed. Similar was the statement of co-accused Deepak.

As per ballistic report, .38” revolver recovered from the petitioner has been found to be in working condition.

Having considered the antecedents of petitioner, I find that the petitioner was involved in one more case of offence under Section 398/401 IPC in which he is on bail. Petitioner is in custody of the present case since 08.08.2016. Incarceration of 1 year 6 months cannot be lost sight of for considering right of speedy trial. The involvement of the petitioner in another case cannot be an impediment in view of judgment of Hon'ble Apex Court in **Maulana Mohd. Amir Rashadi vs. State of U.P. & Anr., 2012(1) R.C.R. (Criminal) 586.**

At this stage, without adverting anything on merits of

the case, keeping in view the facts that challan has already been presented, charges have been framed and the trial would take sufficient time in its culmination, I deem it appropriate to release the petitioner on regular bail, who is in custody for more than 18 months.

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.

May 01, 2018

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**(RAJ MOHAN SINGH)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No