

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

CRM-M No. 19014 of 2018

Date of decision : 03.10.2018

Umit Kumar

.....Petitioner

Versus

State of Haryana

...Respondent

CORAM : HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present : Mr. Abhilaksh Grover, Advocate for the petitioner.
 Mr. Chetan Sharma, AAG, Haryana.
 Mr. Raj K. Bhatia, Advocate for the complainant.

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DAYA CHAUDHARY, J.

Petitioner Umit Kumar has filed the present petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to him in case FIR No.446 dated 29.11.2017 under Sections 148, 149, 323, 325, 341, 379-B, 506 and 120-B of the Indian Penal Code, 1860 and Section 25 of the Arms Act, registered at Police Station Farakpur, Distt. Yamuna Nagar.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the case, whereas he was not involved in the commission of offence. He further submits that names of four accused were mentioned and specific roles were attributed to them who caused injuries to the complainant. In case of the petitioner, neither his name was mentioned

in the FIR nor any specific role was attributed to him. Learned counsel also submits that co-accused of the petitioner namely Sahil Marwah and Kailash were named by the brother of the complainant and they were also identified by him in the CD. They were given benefit of concession of bail by the trial Court. Learned counsel also submits that the case of the petitioner is on equal footing but still bail has been rejected by the lower court. Other co-accused namely Sumit and Mohit have also been granted benefit of concession of bail by this Court vide orders dated 26.04.2018 passed in CRM-M Nos.8298 and 14645 of 2018, respectively. Learned counsel also submits that the brother of the complainant is not an eye witness but he identified the petitioner in the CD from the body language whereas faces of the accused were covered. The CD was played by the Investigating Officer in presence of brother of the complainant who identified the petitioner and other four accused who have already been released on bail. The petitioner is behind the bars since 08.02.2018 and no purpose would be served by keeping him in custody.

Learned State counsel as well as learned counsel for the complainant have opposed the submissions made by learned counsel for the petitioner on the ground that five injuries were caused to the injured by all the accused persons. The involvement of the petitioner is clearly established from the CD and no ground is made out to release him on regular bail. Learned State counsel has also opposed the submissions made by learned counsel for the petitioner on the ground of seriousness of offence and the role as reflected in the CD.

Heard arguments of learned counsel for the parties and have also perused the contents of the FIR and other documents on the file.

Undisputedly, the investigation has been completed. No evidence has been collected to involve the petitioner in the commission of offence. Although a submission has been made by learned State counsel as well as learned counsel for the complainant that the petitioner was identified by the brother of the complainant, whereas he is not eye witness of the incident. By considering the parity with co-accused Sumit and Mohit, the petitioner is also entitled for bail and as such the present petition is allowed and the petitioner is directed to be released on regular bail on furnishing bail/surety bonds to the satisfaction of the trial Court.

03.10.2018

sunil yadav

**(DAYA CHAUDHARY)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No