

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

CRM-M No. 27711 of 2018

Date of decision : 05.09.2018

Anuj

.....Petitioner

Versus

State of Haryana

...Respondent

CORAM : HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present : Mr. Ajay Ghangas, Advocate for the petitioner.

Ms. Tanushree Gupta, DAG, Haryana.

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DAYA CHAUDHARY, J.

Petitioner Anuj has approached this Court by way of present petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to him in case FIR No.326 dated 13.07.2017 under Sections 387, 307, 120-B of the Indian Penal Code, 1860 (for short – ‘IPC’) and 25 of the Arms Act registered at Police Station City Gohana, Distt. Sonapat.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the case, whereas he has no connection with the alleged offence in any manner. Initially the FIR was registered under Sections 285 & 387 IPC and 25 of Arms Act but during investigation Section 285 IPC was deleted and Sections 307 and 120-B IPC were added. Learned counsel further submits that name of the petitioner is not mentioned in the FIR and no specific role has been attributed to him. He has been

implicated only on the basis of disclosure statement made by co-accused, which has no evidentiary value in the eyes of law. Learned counsel further submits that the petitioner has been implicated in two FIRs i.e. FIR No.325 and FIR No.326 (the present one) on the same date and on the basis of same allegations. No offence is made out under Section 307 IPC as it has been alleged that the shot has been fired in the air and that too by the co-accused and not by the petitioner. Challan has been presented and nothing is to be recovered from the petitioner. He is in custody since 17.07.2017 and no purpose would be served by keeping him in custody. Learned counsel also submits that PW-1, PW-2 and PW-3 have not supported the case of the prosecution. Co-accused of the petitioner namely Pushpender has already been released on regular bail vide order dated 22.02.2018 passed in CRM-M No.39907 of 2017.

Learned State counsel has not disputed the period of custody undergone by the petitioner as well as statements of said three prosecution witnesses.

Heard arguments of learned counsel for the petitioner as well as learned State counsel. I have also perused the contents of the FIR and other documents on the file.

Admittedly, the name of the petitioner has not been mentioned in the FIR and no specific role has been attributed to him. He has been implicated on the basis of disclosure statement made by the co-accused and said co-accused has already been released on regular bail. Even three prosecution witnesses have not supported the case of the prosecution.

Accordingly, by considering the period of custody undergone by the petitioner as well as the fact that co-accused has already been released on regular bail and three prosecution witnesses have not supported the case of the prosecution, the present petition is allowed and petitioner Anuj is directed to be released on regular bail on furnishing bail/surety bonds to the satisfaction of the trial Court.

05.09.2018

sunil yadav

**(DAYA CHAUDHARY)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No