

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

**CRM-M No.52564 of 2018 (O&M)
Date of Decision: 04.12.2018**

Lt. Col. (Retd.) (Dr.) Prem Kumar Sharma

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. A.P.S.Deol, Senior Advocate with
Mr. Himmat Singh Deol, Advocate for the petitioner.

Mr. Yashwinder Singh, Deputy Advocate General, Haryana
for the respondent.

MAHABIR SINGH SINDHU, J. (Oral)

Present petition under Section 439 of the Code of Criminal Procedure has been filed for grant of regular bail to the petitioner in case FIR No.227 dated 12.08.2018, under Section 307 of the Indian Penal Code, 1860 and Sections 25 and 27 of Arms Act, 1959 (*for short 'the Act'*), registered at Police Station Parao , District Ambala.

The allegations, in brief, against the petitioners are that on 11.08.2018, at about 06:00 PM, due to some water logging during rainy season in the street, an altercation had taken place between the complainant side and the petitioner and at that moment, the petitioner fired gun shots from his pistol upon the complainant/injured and out of which, one shot hit on the left side of his chest and other on left hip.

The fact of firing of gun shots is admitted by the petitioners, but the same is claimed to be in his self defence with further submissions that petitioner as well as his wife, namely, Lt. Col. Kiran Jyoti are retired from the

Army Medical Corps (AMC) and running a Society for charitable purpose in the name and style of '*White Lotus Madhyamik Siksha Society*' for imparting free education to the persons below poverty line, handicapped and Scheduled Castes and also provides Scholarships to Orphan and helpless girl students up to 10th class, but some persons from the area, due to professional jealousy, wanted to close the Society, run by the petitioner. Also contends that the petitioner is in custody since 12.08.2018 and after completion of the investigation, challan has already been presented by the police before the Court of learned Illaqa Magistrate on 31.10.2018, under Section 307, IPC and Section 27 of the Arms Act and offence under Section 25 of the Arms Act has been deleted as the petitioner was having the licensed pistol.

On the other hand, learned State Counsel, on instructions from ASI Krishanpal, has opposed the prayer of the petitioner for grant of bail by submitting that he has fired gun shots with an intention to kill the complainant and he may extend the threat to the prosecution witnesses, therefore, the petition be dismissed.

Heard both sides and perused the paper-book.

There is no dispute that the petitioner is in custody since 12.08.2018 and after completion of the investigation, challan has already been submitted under Section 307, IPC and Section 27 of the Arms Act before the Court of learned Illaqa Magistrate on 31.10.2018 and offence under Section 25 of the Arms Act stands deleted.

On a pointed query, learned State Counsel, on instructions from the police official, has stated that the injured is fully recovered from the gun shots injuries and charges are yet to be framed.

The petitioner is not disputing the factum of firing the gun shots, but he

is raising the plea of self defence and that will be seen after leading evidence by both the parties before learned trial Court being a debatable issue. Since the investigation is already over and as per the prosecution version itself, the genesis of the occurrence is alleged to be the petty issue on accumulation of some drainage water during rainy season. Undisputedly, petitioner is a retired Army Officer, who along with his wife are running a Society for the common cause and this is not the allegation that he is likely to flee from the justice. The apprehension of the prosecution that he may threat the prosecution witnesses is without any substance as there is no material shown to this Court in this regard.

In view of the facts and circumstances, discussed hereinabove, this Court feels that further incarceration of the petitioner, pending trial, in the company of criminals would not serve any purpose and thus, it would be appropriate if he be released on bail. Consequently, without expressing any opinion on the merits of the case, the present petition is accepted. Petitioner be admitted to bail on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court.

Learned trial Court shall make an endeavour to expedite the trial as early as possible and petitioner shall fully co-operate with the same.

It is made clear that in case there is non-cooperation by the petitioner during trial or he try to hamper the same in any manner, the prosecution as well as the complainant are at liberty to move an appropriate application before this Court for recalling of this order.

December 04, 2018

Sunil Devi/Gagan

**(MAHABIR SINGH SINDHU)
JUDGE**

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>