

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

207

CRM-M-5020-2019

Date of Decision : 10.04.2019

Sunil Kumar @ Deepiya

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. R.S.Mamli, Advocate
for the petitioner.

Mr. Sandeep Parmar, DAG, Haryana.

MANOJ BAJAJ, J.(ORAL)

Petitioner Sunil Kumar @ Deepiya has filed this petition seeking regular bail in case FIR No.228 dated 04.05.2018 (Annexure P-1), under Section 307, 34 of the Indian Penal Code and Section 25 of Arms Act, Police Station City Fatehabad, District Fatehabad.

The petitioner is in custody since his arrest on 09.08.2018. However, the FIR was recorded on the statement of Rajpati, mother of the injured wherein it was recorded that her son namely Sunil Kumar @ Silu went with Gurdeep (his cousin) to village Khan Mohammad in the house of Deepiya (petitioner) on 03.05.2018. It was further narrated by the complainant that her son-in-law Anil telephonically informed about the injury suffered by Sunil @ Silu, who was being taken to the hospital for treatment at Hisar.

Learned counsel for the petitioner contends that later on statement of injured Sunil Kumar @ Silu was recorded wherein the entire incident stood neatly narrated by him. According to him, the injured had suffered injury by an accident as the pistol being handled by the petitioner went off and caused injury in the stomach of injured Sunil. The said statement reads as under :-

“Mithu told that the amount the along to him and how he will pay to you Gurdeep has pulled the trigger back and front. I snatched the pistol from Gurdeep and gave it to the Dipiya. Dipiya has pulled the magazine from pistol so that nobody gets injured. Dipiya and all of us were sitting on Cot/Charpai and Dipiya was handling the pistol and pull the trigger, I was sitting on front Cot the bullet has hit in my stomach, thereafter Sumit Gujjar, Mitthu Dangi has put the vehicle of the Sumit and got me for treatment.”

Learned counsel for the petitioner further contends that though there is retraction by the injured in the subsequent statement recorded on 30.05.2018, however, it would be a matter of trial about the truthful version of this occurrence. According to him, the examination-in-chief of the injured is already recorded.

On the other hand, this petition is opposed by State counsel on the ground that the offence is serious in nature. According to him, initial version given by the injured cannot be attached any significance, in view of

the subsequent supplementary statement got recorded by him on 13.05.2018 wherein it was stated that this gun shot fire was intentional.

Considering the above background, the variance in the statement of the injured and the stage of trial, further custody of the petitioner may not be justified. Therefore, without commenting anything on the merits of the case, the petitioner is ordered to be released on bail, on his furnishing bail bonds and surety bonds, to the satisfaction of the Trial Court concerned.

The petition is allowed.

10.04.2019
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(MANOJ BAJAJ)
JUDGE

Whether Speaking/Reasoned: Yes/No

Whether Reportable : Yes/No