

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

CRM-M No. 16383 of 2018 (O&M)

Date of decision : 18.01.2019

Anil @ Khada

.....Petitioner

Versus

State of Haryana

...Respondent

CORAM : HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present : Mr. Rivayat Hayer, Advocate for the petitioner.

Mr. Chetan Sharma, AAG, Haryana.

Mr. P. S. Sullar, Advocate for the complainant.

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DAYA CHAUDHARY, J. (Oral)

Present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case FIR No.94 dated 26.03.2015 under Sections 148/149/341/302/307/216 of the Indian Penal Code, 1860 (for short – 'IPC') and Section 25 of the Arms Act, 1959 registered at Police Station – Sadar Narnaul, Distt. Mahendergarh during pendency of the trial.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the case, whereas he was not involved. It is a case of version and cross version and it is a matter of evidence as to which party was more aggressive and nothing can be said at this stage. The cross version was recorded at the instance of co-accused Samey Singh for offence under Section 307 IPC. As per the allegations, the complainant party was

more aggressive, who attacked the petitioner. When the car of the petitioner reached at bus stand, village Lahroda, a Bolero vehicle dashed into the Scorpio vehicle and the persons who were in the other vehicle opened firing upon the persons sitting in the Scorpio vehicle. Co-accused of the petitioner namely Samey Singh was hit by 5/6 bullets but he was survived. On the basis of statement of co-accused Samey Singh, cross version was registered under Sections 148, 149, 307, 341 IPC as well as Section 25 of the Arms Act. Challan has been presented and after framing of the charges, the case is fixed for prosecution evidence. Learned counsel also submits that there is unexplained delay in reporting the matter to the police. Trial may take some time to conclude and no purpose would be served by keeping the petitioner in custody. Co-accused of the petitioner namely Surender alias Chiku, Arvind alias Ponty and another, Samey Singh and Sudhir have been granted regular bail by this Court vide orders dated 07.02.2017, 06.04.2017, 25.05.2017 and 06.04.2017 respectively. Petitioner is in custody since 13.10.2016. Recovery has been effected from co-accused who has been released on regular bail.

Learned State counsel has opposed the submissions made by learned counsel for the petitioner on the ground that total eight cases are there against the petitioner and he is a habitual offender. However, he has not disputed the custody period, stage of the trial as well as the factum regarding release of co-accused on bail.

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

By considering the submissions made by learned counsel for the petitioner and keeping in view the custody of the petitioner since 13.10.2016 and also the fact that co-accused of the petitioner as mentioned above have been released on regular bail; it is a case of version and cross-version; total eight cases are there against the petitioner, in one case he has been convicted, in five cases he has been acquitted, two cases including the present one are pending and he is on bail in the other case; all the material prosecution witnesses have been examined and no purpose would be served by keeping him in custody, accordingly, present petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing adequate bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

18.01.2019*sunil yadav***(DAYA CHAUDHARY)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No