

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

CRM-M No. 39623 of 2018 (O&M)

Date of decision : 05.03.2019

Harjinder Singh

.....Petitioner

Versus

State of Punjab

...Respondent

CORAM : HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present : Mr. Salil Dev Singh Bali, Advocate for the petitioner.

Ms. Samina Dhir, DAG, Punjab.

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DAYA CHAUDHARY, J. (Oral)

CRM No.7492 of 2019

This application is for placing on record Annexure A-1.

Application is allowed and Annexure A-1 annexed with the application is taken on record.

CRM-M No.39623 of 2018

This petition has been filed by petitioner Harjinder Singh under Section 439 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') for grant of regular bail to him in case FIR No.197 dated 20.06.2014 under Sections 302/323/148/149/120-B of the Indian Penal Code, 1860 and Sections 25/27/54/59 of the Arms Act, 1959, registered at Police Station – Sadar Ferozepur, Distt. Ferozepur, during pendency of the trial.

Learned counsel for the petitioner submits that it is a case of version and cross-version and the petitioner has been implicated in the case as he is a witness in the cross-version. As per the allegations in the FIR, the

petitioner came at the place of occurrence empty handed but he took a 12 bore gun from co-accused Gurbachan Singh and fired the shot. However, there is no connecting evidence to show the involvement of the petitioner with the fact of firing shots. Learned counsel further submits that there are total 32 prosecution witnesses, out of whom 23 witnesses have been examined and still the trial Court may take some time to conclude the trial as after recording the prosecution evidence, the statement of accused under Section 313 Cr.P.C. is to be recorded and thereafter statements of defence witnesses are to be recorded. In case the petitioner is released on bail, he may get the opportunity to defend his case. He is in custody for the last more than four years and no purpose would be served by keeping him in custody.

Learned State counsel has not disputed the period of custody undergone by the petitioner, the stage of the trial and also the fact that it is a case of version and cross-version. However, learned counsel for the complainant has opposed the bail on the ground of seriousness of offence.

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

By considering the custody period of more than four years and also the fact that it is a case of version and cross-version; no evidence has been collected to connect the petitioner with the fact of firing shot by him as initially he has been shown to be empty handed but he has fired the shot by taking 12 bore gun from co-accused Gurbachan Singh; it is a debatable

issue as to whether the petitioner actually fired the shot or co-accused fired the shot, which will be decided by the trial Court after getting the evidence and nothing can be said at this stage; it will take some time to conclude the trial as still nine prosecution witnesses remain to be examined and also the fact that in case the petitioner is released on bail, he would be in a position to pursue his case as defence witnesses are yet to be examined. Accordingly, the 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.

05.03.2019

sunil yadav

**(DAYA CHAUDHARY)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No