

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

**CRM-M No.45565 of 2018 (O&M)
Decided on: 26.02.2019**

Jatinder Kumar @ Neela

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. B.S. Bhalla, Advocate for the petitioner.

Mr. M.S. Nagra, AAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.185 dated 20.09.2017, for offence punishable under Sections 307/148/149 of the Indian Penal Code (in short 'IPC'), 25/27/54/59 of the Arms Act, registered at Police Station City South Moga.

Counsel for the petitioner has submitted that as per the allegations in the FIR, the petitioner is attributed fire arm injury on the neck and shoulder to one Varinder @ Vishu. It is further submitted that immediately after registration of the FIR, the wife of the petitioner gave an application to the Senior Superintendent of Police, Moga, which was marked to the Deputy Superintendent of Police, for an enquiry and after the enquiry report was submitted on 28.09.2017, a cross case was also registered against one one Vikas Jindal vide Rapat No.23 dated 01.10.2017 under Sections 307, 148 and 149 IPC read with Section 25/54/59 of the Arms Act.

Counsel for the petitioner has further argued that it being a version and cross-version case and in view of the defence set up by the petitioner that the complainant party was aggressor party and the petitioner has acted in self-defence as they have entered the shop, it is to be decided during the course of trial as to which party was aggressor. It is also submitted that the challan was presented on 26.03.2018 and till date, charges have not been framed.

Counsel for the State, on instructions from ASI Pahara Singh, has not disputed the factual position that till date, charges have not been framed by the trial Court and the petitioner is in custody since 05.03.2018.

Without commenting anything on merits of the case, considering the fact that it is a case of version and cross-version and despite the petitioner being in custody for the last more than 11 months, charges have not been framed and also in view of the fact that the conclusion of the trial is likely to take some time, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

26.02.2019

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Whether speaking/reasoned
Whether reportable:

Yes/No
Yes/No