IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl. Misc. No. M-51568 of 2018

DATE OF DECISION:13.02.2019

Sunder @ Sunderiya .....Petitioner

Versus

State of Haryana .....Respondent

BEFORE:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. Manjeet S. Dalal, Senior Advocate with
Mr. Mohit Nehra, Advocate
for the petitioner.

Mr. Chetan Sharma, AAG, Haryana.

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DAYA CHAUDHARY, J.

The present petition under Section 439 Cr.P.C. has been filed by petitioner-Sunder @ Sunderiya for grant of regular bail to him in case FIR No. 321 dated 19.7.2018 registered under Sections 148,149,323,307, 379-B,386,427,506 IPC and Section 25 of Arms Act at Police Station Tosham, District Bhiwani.

Learned counsel for the petitioner contends that the petitioner has falsely been implicated in this case, whereas, neither the petitioner was named in the FIR nor any specific role has been attributed to him. It is a matter of evidence as well as debatable question whether the petitioner was present at the place of occurrence or not. The petitioner is neither alleged to have fired the shot nor has caused any injury on the person of injured-Ram Chander. The petitioner has been implicated in this case only on the basis of disclosure statement made by co-accused. No offence under Section 307

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IPC is made out. The petitioner is in custody since 22.8.2018.

Learned counsel for respondent-State has not disputed the custody period as well as involvement of the petitioner on the basis of disclosure statement made by co-accused. However, he submits that recovery of danda was made from the petitioner.

Keeping in view the custody of the petitioner since 22.8.2018 and the facts that the petitioner was not named in the FIR; no specific role has been attributed to him; he has been implicated in this case only on the basis of disclosure statement made by co-accused and it is to be seen during trial whether the danda recovered from the petitioner was used in the commission of offence or not, the present petition is allowed. Petitioner-Sunder @ Sunderiya is directed to be released on regular bail subject to his furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate.

February 13, 2019 **(DAYA CHAUDHARY)**
pooja **JUDGE**

Whether speaking/reasoned Yes
Whether reportable No

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