

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

CRM-M No.52689 of 2018

Date of Decision: 01.03.2019

Hitesh alias Happy

....Petitioner

Versus

State of Haryana

....Respondent

BEFORE :- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. S.S. Mor, Advocate
for the petitioner.

Mr. R.S. Doon, A.A.G., Haryana.

DAYA CHAUDHARY, J. (ORAL)

This petition has been filed under Section 439 Cr.P.C for grant of regular bail to petitioner, namely, Hitesh alias Happy in case FIR No.185 dated 18.05.2016 registered under Sections 302/34 IPC and Section 25 of the Arms Act, 1959 (subsequently added Section 120-B IPC) at Police Station Kharkhoda, District Sonipat during pendency of the trial.

Learned counsel for the petitioner submits that as per allegations levelled in the FIR, the petitioner was not present at the time of occurrence and no overt act has been attributed to him. The petitioner came to meet the brother of the complainant at 9.00 a.m and thereafter, two un-known boys came on the motorcycle at 5.00 p.m and one of them fired a shot on the brother of the complainant. Thereafter, both of them ran away on their motorcycle. Learned counsel also submits that the FIR was registered against un-known persons. Neither any description has been given nor any overt act has been attributed to the petitioner. As per allegations in the FIR, the shot has been fired by one out of two un-known persons and the petitioner was not present in the evening as he came in the morning.

Petitioner has been connected with the commission of offence only on the basis of disclosure statement, which has no evidentiary value. The petitioner is in custody for the last more than two years and six months. However, out of total 23 witnesses, 05 witnesses have been examined including complainant-Shri Kant, who is brother of the deceased. He has also not deposed anything specific against the petitioner. Simply it has been stated that he identified accused Hitesh. Both the persons, who were present in the Court, were not present at the time of occurrence. Meaning thereby, the complainant has not supported the case of the prosecution.

Learned State counsel has opposed the bail of the petitioner on the ground that the trial is at the fag end as out of total 29 witnesses, 26 witnesses have been examined and eight other cases including two cases under Section 302 IPC, one case under Section 307 IPC and one case under Section 376 IPC are pending against the petitioner.

However, learned counsel for the petitioner is not aware about the status of those cases.

Keeping in view the number of cases of serious nature, including two cases under Section 302 IPC, one case under Section 307 IPC and one case under Section 376 IPC, the petitioner cannot be released on regular bail at this stage.

The petition is accordingly dismissed.

However, the trial Court is directed to make all efforts to expedite the trial.

(DAYA CHAUDHARY)
JUDGE

01.03.2019

gurpreet

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No