

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

**CRM-M No.12704 of 2020
Date of Decision : 10.08.2020**

Sunil @ Khairu

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM : HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present : Mr. Abhimanyu Singh, Advocate
for the Petitioner.

Mr. Sukhdeep Parmar, Deputy Advocate General, Haryana
for the Respondent/State.

SUDIP AHLUWALIA, J. (ORAL)

The instant Petition has been filed under Section 439 of the Code of Criminal Procedure seeking Regular Bail on behalf of the Petitioner in case FIR No.79, dated 7th May, 2018, registered under Sections 120-B, 147, 149, 186, 302, 307, 332, 353 of the Indian Penal Code and Section 25 of the Arms Act, at Police Station Siwani, District Bhiwani.

2. On 9th July, 2020, a Co-ordinate Bench of this Court had directed the State to ascertain 'why evidence in this case has not been led and also to point out any difference of role attributed to the Petitioner *vis-a-vis*; the role attributed to co-accused Sandeep, who had been granted regular bail by this Court in CRM-M No.46015 of 2018 on 11th January, 2019.

3. Ld. Counsel for the State submits that out of 53 witnesses cited in the Challan, 15 have already been examined and one given up.

4. The next date fixed for Prosecution Evidence happens to be 21st of this month.

5. It is seen from the Custody Certificate that the Petitioner was convicted in another case being FIR No.33 of 2015 dated 26th February, 2015 registered under Section 147, 148, 149, 384, 302, 120-B, 212, 201 of the IPC and Section 25 of the Arms Act, at Police Station Behal, Bhiwani and was awarded a sentence of Rigorous Imprisonment for life apart from fine.

6. It further transpires that he was arrested in connection with that case on 11th March, 2015 which was more than 03 years before the FIR in the present case was drawn up, and continues to be in uninterrupted custody till date. This would mean that he was undoubtedly in Jail on the date of occurrence in the present case i.e. 7th May, 2018. To that extent therefore, on the same reasoning on the basis of which co-accused-Sandeep was granted bail in CRM-M No.46015 of 2018 also exists in favour of the Petitioner that he was neither present at the spot nor fired at the Police Party and is being implicated on the basis of Disclosure Statements made by co-accused persons.

7. It is however submitted by Ld. Counsel for the State that antecedents of the Petitioner are different from those of co-accused, namely Sandeep, who was not involved in any other case nor convicted.

8. Be that as it may, considering the long detention undergone by the Petitioner in the present case which by now is 2 years and 3 months, and

the fact that he was undoubtedly not actually present at the place of occurrence, as well as keeping in view the fact that the trial is likely to take a considerable time to conclude in view of the on-going Covid-19 Pandemic, at this stage, this Court is of the opinion that further detention of the Petitioner for an indefinite period is not justified. As such, he is ordered to be released on bail subject to the satisfaction of the Ld. Trial Court/Duty Magistrate concerned.

6. Disposed off.

August 10, 2020
Dpr

(SUDIP AHLUWALIA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No