

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

208

**CRM-M-15819-2020
Date of Decision : 16.11.2020**

JAIVEER

.....Petitioner

Versus

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Keshav Pratap Singh, Advocate
for the petitioner.

Mr. Anant Kataria, DAG, Haryana
for the respondent-State.

Mr. Ashish Sanghi, Advocate
for the complainant.

ARUN KUMAR TYAGI, J. (Oral)

(The case has been taken up for hearing through video conferencing.)

The petitioner has filed the present petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.937 dated 25.11.2018 registered under Sections 148, 149, 302, 307, 411 of the Indian Penal Code, 1860 (for short 'the IPC') and Section 25 of the Arms Act, 1959 at Police Station Sadar Palwal, District Palwal.

The above said FIR was registered on statement of Pawan who alleged that on 25.11.2018 when he and his cousin Sunil were sitting on chairs and reading newspaper in front of their shop and his other cousin Rajender was also sitting in front of his shop, at about 8.15 AM accused Yashvir, Dinesh @ Kallu and 4/5 unknown persons came in white swift car without number plate. Yashvir and Dinesh @ Kallu fired at Sunil with pistol and country made pistol with intention to kill him and when he tried to stop Yashvir, he turned back and hit him on the head with the butt of the pistol. Dinesh fired at him with intention to

kill him and the shot hit him on his leg. Thereafter, other persons also fired shots in the air and fled from the spot in the car. The incident was witnessed by Govind and Surrender. He and Sunil were taken to Sarvodya Hospital where the doctors declared his brother Sunil brought dead.

The police investigated the case and on finding evidence to be sufficient against Yashvir, Jaiveer (petitioner), Yogesh and Amit filed chargesheet against them.

The petition has been opposed by the respondent-State in terms of reply filed by way of affidavit of Vijay Pal, HPS, Deputy Superintendent of Police, Palwal.

Learned Counsel for the complainant has also appeared and opposed the bail application.

I have heard learned Counsel for the petitioner, learned State Counsel and learned Counsel for the complainant and gone through the record.

Learned Counsel for the petitioner has argued that the petitioner was not named in the FIR. No Test Identification Parade was got conducted for his identification. The petitioner has been falsely implicated in the present case on the basis of disclosure statement of co-accused Yashvir and also on his own disclosure statement made in case FIR No. 274 dated 26.04.2019 registered under Section 25 of the Arms Act at Police Station, Sector 7, Faridabad. The petitioner is alleged to have driven the swift car which was used in commission of the offences. The petitioner was not party to the conspiracy and did not participate in the commission of the alleged offences. There is no direct or circumstantial evidence other than his own disclosure statement and disclosure statement of the co-accused as to involvement of the petitioner in the commission of the crime. The petitioner is in custody since 04.05.2019. Trial is likely to take long time and no useful purpose will be served by keeping the petitioner in custody. Therefore, the petitioner may be ordered to be released on regular bail.

On the other land, learned State Counsel has argued that the petitioner had actively participated in the commission of the offences as he was driving the swift car used in commission of the

offences. In view of gravity of the accusation the petitioner does not deserve the concession of regular bail. Therefore, the petition may be dismissed.

Learned Counsel for the complainant has submitted that deceased Sunil was prosecution witness in another case against the accused involved in the present case and was murdered for the purpose of ensuring that he did not depose in that case. Pawan Kumar-complainant in the present case is also now missing. If granted regular bail the petitioner will intimidate the prosecution witnesses. The petitioner does not deserve grant of regular bail and the petition may be dismissed.

Keeping in view the facts and circumstances of the case, nature of accusation and evidence against the petitioner who was not named in the FIR and is implicated on the basis of alleged disclosure statements made by him and his co-accused, role attributed to him, the period of his custody and the fact that the trial is likely to take long time due to restrictions imposed to prevent the spread of COVID-19, but without commenting on merits of the case, I consider it appropriate that the concession of regular bail be extended to the petitioner.

Therefore, the petition is allowed and the petitioner is ordered to be released on regular bail on furnishing of requisite bail bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

However, the petitioner is granted regular bail subject to the condition that the petitioner shall not intimidate any of the prosecution witnesses or commit any similar offence after his release on bail and in case of intimidation of any of the prosecution witnesses or commission of similar offence by him after his release on bail, his bail in the present case shall also be liable to be cancelled on application to be filed in this regard.

16.11.2020

kavneet singh

(ARUN KUMAR TYAGI)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No