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

**CRM-M-17243-2020
Date of Decision: 14.07.2020**

Jitender @ Kalta

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. Rahul Makkar, Advocate, and
Mr. Giriraj Subramaniam, Advocate,
for the petitioner.

Mr. Anant Kataria, DAG, Haryana.

SUDIP AHLUWALIA, J. (ORAL)

The instant petition has been filed under Section 439 of the Code of Criminal Procedure seeking regular bail in case FIR No.75 dated 30.03.2017 (Annexure P-1), under Sections 148, 149, 302, 307 and 120-B of the I.P.C. and Sections 25, 54 and 59 of the Arms Act, registered at Police Station Sahlawas, District Jhajjar.

[2]. The petitioner was arrested on 21.04.2017. His earlier bail petition, being CRM-M-40350-2017, was rejected on 20.11.2017.

[3]. It has been highlighted on behalf of the petitioner that his name was not mentioned by the complainant in the original FIR lodged on 30.03.2017, and that the complainant's own version, concerning the involvement of certain other accused persons, was not only disbelieved by the Police Authorities, but also by the Ld. Trial Court itself, who had rejected his

bail application for summoning two other persons, namely Sudhir and Dayanand, of which note has been taken by the Ld. Additional Sessions Judge, Jhajjar, in Para No.6 of his impugned order dated 26.07.2019.

[4]. It has been further highlighted that the corroborating witness, namely Mahabir, while deposing as PW-5 in the Ld. Trial Court, first stated in his examination-in-chief that he had heard the accused Bhupender @ Kana, Manoj and the present petitioner whispering to each other, when he happened to pass by the house of Manoj, that Bhupender wanted to take revenge from the witness's nephew Satyawan for a quarrel which had taken place 6-7 months prior, and after hearing these whispers at about 8-8:30 p.m. on 29.03.2017, he had gone to the house of Satyawan, but did not find him present there. Thereafter, in his cross-examination, as seen in the first line of the sub Para on Page No.45, the witness then deposed, "*I did not went at the house of Satyawan on 29.03.2017*".

[5]. In this manner, endeavour of the petitioner has been to highlight that he has been falsely framed in the case, when in fact, his name was never disclosed by the complainant in the original FIR and the evidence transpiring against him is also suspect as well as contradictory.

[6]. Reliance has also been placed on the judgments passed by the concurrent Benches of this Court in "***Gurdeep Singh @ Deepa Vs. State of Punjab***" and "***Yograj Vs. State of Punjab***", in which similarly placed accused persons, who were facing the trial for similar offences, including Section 302 of the Indian Penal Code, have been granted bail on 13.03.2020 and 21.05.2020, respectively, considering that they had remained in detention for 8 months and 22 months, respectively, in a situation when conclusion of the trial

is likely to take some time on account of the ongoing COVID-19 Pandemic.

[7]. Without thus commenting upon the merits of the submissions raised on behalf of the petitioner, but considering that he has remained in detention in the present case for well above 3 years, and had not misused the liberty of interim bail, which was granted to him by the Ld. Judicial Magistrate Ist Class, Jhajjar, on 04.05.2017, vide his order Annexure P-4, so as to enable the petitioner to appear at his B.A. (Fourth Semester) Examination, and also considering that the trial is likely to take some time on account of the ongoing COVID-19 Pandemic, in a situation when only 7 witnesses out of the 29 witnesses from the prosecution side have been examined so far, this Court is inclined to release the petitioner on bail at this stage, subject to the appropriate terms and conditions to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned. It is, however, clarified that this order shall not be treated as a precedent for any of the other co-accused persons in custody in the present case, who were either specifically named in the FIR or against whom there is tangible material to link them with the alleged occurrence. It is further clarified that no observation made in this order shall cast any reflection upon the final merits of the case and the Ld. Trial Court shall pronounce its judgment after completion of the trial, independently without being influenced by any such observation.

[8]. Disposed off.

14.07.2020

Apurva

**(SUDIP AHLUWALIA)
JUDGE**

1. Whether speaking/reasoned: Yes/No
2. Whether reportable: Yes/No