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

**CRM-M No.30461 of 2019
Date of Decision: 24.01.2020**

Ajay @ Bittu

.....Petitioner

Vs

State of Haryana

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Jitender Dhanda, Advocate
for the petitioner.

Mr. Anmol Malik, AAG, Haryana.

RAJ MOHAN SINGH, J.(Oral)

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.1082 dated 26.10.2018 registered under Sections 307, 147, 148, 149 IPC and Section 25 of the Arms Act at Police Station Sadar Hisar, District Hisar.

As per allegations in the FIR, occurrence took place on 25.10.2018 at about 8:30 PM when the complainant after finishing his job of photography was going to his house. Ravi and Kalu @ Ravi were accompanying him on the same motorcycle. When they reached near hostel on a canal, they

heard bang of shots fired at them from backside. Complainant stopped his motorcycle and they found that the petitioner (though shown to be Bintu son of Kala, but alleged to be the petitioner), Rahul, Rajesh, Parveen, Kala, Suraj and one fatty boy were standing. Fatty boy was having a pistol in his hand and he fired upon the complainant. Ravi and Kalu @ Ravi fled away from the spot. The complainant started running. Rajesh, Parveen and Kala also came from the opposite side and they struck the motorcycle with the complainant. Complainant again started running towards the hostel and entered into the premises and saved his life. Ultimately, he came to know that the petitioner and others namely Rahul, Rajesh, Parveen, Kala, Suraj, Akshay and Arjun had fired shots at him and his companions namely Kalu and Ravi. With this background, FIR came to be registered.

Subsequently, it was found that after the aforesaid incident, the petitioner along with Akshay, Suraj, Rahul and Suraj @ Bachi reached in front of the house of Harsh, where Sachin son of Bhim Singh was standing. Akshay opened fire upon him, but he escaped and the shot ultimately, hit two children namely Rohit and Harsh who were playing nearby.

According to the learned counsel for the petitioner, in both the shoot out incidents, the petitioner is not the person who

fired at the complainant party. In the first occurrence, one fatty boy fired at the complainant, whereas in the second occurrence, Akshay opened fire, which ultimately, hit two children namely Rohit and Harsh.

Learned State counsel on instructions from ASI Surender by referring to the concluding part of the FIR states that the petitioner and others were instrumental in firing at the complainant and they came together after hatching a conspiracy, therefore, role of the petitioner cannot be segregated viz-a-viz the fatty person and Akshay.

Having considered the material projected before the Court, I find that the role of the petitioner in the context of firing at the complainant and recovery of pistol, would remain debatable as to the user of the same, which ultimately, caused injuries to two boys namely Rohit and Harsh. Petitioner is in custody since 27.10.2018. Challan has already been presented. Charges have been framed, but no prosecution witness has been examined so far.

In view of the above, without meaning anything on merits of the case, it would be just and appropriate to grant benefit of regular bail to the petitioner.

Let the petitioner be enlarged on regular bail, subject to

his furnishing adequate bail bonds/surety bonds to the satisfaction of trial Court/Duty Magistrate.

Accordingly, this petition is allowed.

Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

24.01.2020

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**(RAJ MOHAN SINGH)
JUDGE**

Whether speaking/reasoned Yes/No

Whether reportable Yes/No