

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

258

**CRM-M-42450-2020
Date of decision: 21.12.2020**

Yogesh

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

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

Mr. Bhupender Singh, DAG, Haryana
for the respondent-State.

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, 302, 307, 411 read with Section 149 of the Indian Penal Code, 1860 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 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 Surender. 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, Yogesh (petitioner) and Amit filed chargesheet against them.

Learned State Counsel has appeared and opposed the petition. However, no reply has been filed by the respondent-State.

I have heard learned Counsel for the petitioner and learned State Counsel 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. The petitioner is not alleged by the complainant to have fired on the deceased. No recovery was made from him. 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. Co-accused Jaiveer has already been granted regular bail by this Court vide order dated 16.11.2020 passed in CRM-M-15819-2020. The petitioner is in custody since 10.06.2019. Trial is likely to take long time due to restrictions imposed to prevent spread of infection of Covid-19. 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. In view of gravity of the accusation the petitioner does not deserve the concession of regular bail. Therefore, 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, parity with co-accused Jaiveer who has already been granted regular bail by this Court vide order dated 16.11.2020 and

the fact that the trial is likely to take long time due to restrictions imposed to prevent the spread of infection 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.

21.12.2020

Kothiyal

(ARUN KUMAR TYAGI)
JUDGE

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