

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

CRM-M No.53820 of 2019 (O&M)

Decided on: 26.02.2020

Vinod

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Gautam Kumar, Advocate
for the petitioner.

Mr. Naveen Sheoran, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.362 dated 02.07.2019, for offence punishable under Sections 307, 120-B, 34 of the Indian Penal Code, 1860 (in short 'IPC') and 25 of the Arms Act, 1959 registered at Police Station City Ballabgarh, District Faridabad.

Counsel for the petitioner has argued that as per the allegations in the FIR, on 02.07.2019 when the complainant was present at his Dhaba, 03 boys came on a motorcycle, 02 boys were having muffled faces and 01 boy was without muffled face and they started abusing him and in the meantime, one boy took out the pistol with an intention to kill him and he ran away from the spot and the boys started following him and fired a shot, which went over the head of the complainant and thereafter, the second shot hit on the leg of one of the

lady, who was sitting in a nearby house.

Counsel for the petitioner has further argued that the prosecution has examined the injured/victim Arastun as PW1 and in her examination-in-chief, she has not identified any of the person as the one, who has caused injury. Counsel for the petitioner has then referred to the statements of PW2 – Harun Khan, PW3 – Irshad, PW4 – Irfan Khan, who have only stated that when they were present in their house, a person came running there and some others were chasing him and in the meantime, one person fired a shot, which it Arastun on her leg, however, none of these witnesses have identified any of the accused person in the Court as the assailant.

Counsel for the petitioner has lastly, argued that the co-accused namely Mohit, Nitin and Kapur have already been granted the concession of regular bail by the trial Court.

Counsel for the State, on instructions from ASI Shishpal, has not disputed the factual position and submits that the petitioner is not involved in any other case.

Without commenting anything on merits of the case, considering the fact that the co-accused of the petitioner have already been granted the concession of regular bail by the trial Court; the petitioner is in custody since 09.07.2019; all the eye-witnesses have not identified the accused person in the trial Court and conclusion of the trial will take some time, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

26.02.2020

(ARVIND SINGH SANGWAN)

JUDGE

yakub

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No