

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

106

CRM-M-3475-2021

Date of decision: 03.03.2021

Sandeep @ Cheta

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Minkal Rawal, Advocate
for the petitioner.

Mr. Ranvir Singh Arya, Addl. A.G. Haryana
for the respondent-State.

ARUN KUMAR TYAGI, J (ORAL)

The petitioner has filed the present (first) petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.234 dated 11.04.2019 registered under Sections 307, 341, 392 and 397 of the Indian Penal Code, 1860 and Section 25 of the Arms Act, 1959 in Police Station Gharaunda, District Karnal.

The above-said FIR was registered on complaint made by Manoj Kumar who alleged that on 11.04.2019 at about 6:30 p.m. When he was going on his motorcycle No.HR05-AL-9178 to pay obeisance to Peer and reached little ahead of Dharam Dhaba, he saw driver of white Swift car bearing registration No.HR60-E-3060 having hit the motorcyclist who had fallen on the road. The driver of the car stopped the car. Immediately he also reached on the place of occurrence. Thereupon, the driver of the car, who was armed with pistol, ran towards him and asked him to stop the motorcycle while abusing him. The driver of the car fired two shots towards him for snatching his motorcycle. The gun shots hit him on the left side of his forehead and on his left leg. On hearing the sound of firing of shots Vikas came to rescue him on which the driver of the car also fired on Vikas. In the meanwhile another boy came on motorcycle No.HR-06W-8875 from

the side of Panipat. The car driver snatched his motorcycle on gun point and fled from the spot. Pursuant to registration of FIR, the police investigated the case and during investigation arrested Sourabh @ Tonger and recovered one motorcycle, one country made pistol of .32 bore with four live cartridges and one country made pistol of .315 bore with nine live cartridges and one empty cartridge from his possession. On the basis of disclosure statement of Sourabh @ Tonger, the petitioner was arrested. On completion of investigation, the police filed charge-sheet against the petitioner and co-accused Sourabh @ Tonger.

The petitioner, who is in custody since 20.05.2019 has filed the present petition for grant of regular bail.

The petition has been opposed by the learned State Counsel. However, no reply has been filed by the respondent-State.

I have heard learned Senior Counsel for the petitioner and learned State Counsel and have gone through the relevant record.

Learned Counsel for the petitioner has submitted that the petitioner was neither named nor attributed any role in the FIR. The petitioner has been falsely implicated on the basis of alleged disclosure statement of co-accused Sourabh @ Tonger. The final report is totally silent in respect of the material on which the petitioner was named as accused in the present case. Challan has already been filed and charges have also been framed but out of 20 prosecution witnesses not a single witness has been examined so far. The trial is likely to take long time due to restrictions imposed to prevent the spread of infection of Covid-19 and no useful purpose will be served by further detention of the petitioner in custody. Therefore, the petitioner may be granted regular bail.

On the other hand, learned State Counsel has, on instructions of ASI Chandan Singh, submitted that the petitioner actively participated in the alleged offences. In his disclosure statement co-accused Sourabh @ Tonger has alleged that the petitioner had given him the alleged pistol which was recovered from him. The petitioner also demarcated the alleged place of occurrence. In view of nature of accusation and gravity of offences, the petitioner does not deserve grant

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, period of his custody, the fact that disclosure statement of the co-accused has no evidentiary value in the absence of corroborative evidence 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 the merits of the case, I am inclined to extend the concession of regular bail to the petitioner.

In view of the above, the petition is allowed and the petitioner is ordered to be released on regular bail on furnishing of personal and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

03.03.2021

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(ARUN KUMAR TYAGI)
JUDGE

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