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

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**CRM-M-13134-2021 (O&M)
Date of decision : 20.04.2021**

Gopal

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Sanjiv Gupta, Advocate, for the petitioner.

Mr. Gaurav Gulzar Singh Chauhan, AAG Haryana.

Mr. Gaurav Singla, Advocate for the complainant.

ALKA SARIN, J.

Heard through video conferencing.

This is the third petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail pending trial to the petitioner in FIR No.0074 dated 27.05.2020 under Sections 307, 34, 506 of the Indian Penal Code, 1860 and Section 25 of the Arms Act, 1959 registered at Police Station Kalka, District Panchkula, Haryana. The first petition under Section 439 CrPC was dismissed vide order dated 14.09.2020 passed in CRM-M-19421-2020. The second petition under Section 439 CrPC was dismissed as withdrawn vide order dated 22.02.2021 passed in CRM-M-34367-2020.

In brief, the allegations in the FIR, as also noticed in order dated 14.09.2020 (Annexure P-7) passed in CRM-M-19421-2020, are that the complainant is an employee of Rakesh Kumar, owner of Sh. Ganesh Realty Company, Burj Kotia, Chandimandir, Panchkula since 16.05.2020. On 27.05.2020, when he was sitting in his office at about 2 pm, two youngsters entered the room and one of them, wearing blue jeans and white and black check designed shirt, covered his face with white cloth and his head was covered with yellow coloured small turban and other person was in white coloured shirt. When they entered, the person who was wearing small turban on the head, took out the pistol from the right side of his trouser with his right hand and told the complainant *“Tum Realty Wale Yahaan Pe nahin Baithoge”* and immediately fired near the leg of the complainant which passed close to his leg and hit the floor and second shot was fired which hit the wooden bed. After giving threats, the boys fled from the spot on their motorcycle.

During investigation, the statements of the witnesses were recorded and two blank cartridges were recovered from the spot. The call recording was produced by the Manager of Ganesh Realty Company in which threatening call had been recorded. Thereafter, on the basis of the investigation and the statements of the witnesses, the petitioner was arrested on 29.05.2020.

Learned counsel for the petitioner has contended that the petitioner was falsely implicated in the case and he is not even named in the FIR. He has submitted that in any event the parties have entered into a compromise which has been annexed as Annexure P-3 with the present

petition and a petition titled "*Gopal vs. State of Haryana*" [CRM-M-36973-2020] has been filed in this Court for quashing of the FIR on the basis of the compromise which is now fixed for hearing on 28.04.2021. Learned counsel for the petitioner has further submitted that after withdrawal of the second bail petition on 22.02.2021 the statements of some Prosecution witnesses, including the complainant, have been recorded who have denied that the petitioner was involved in the crime. He has referred to copies of these statements which have been attached as Annexures P-8 to P-10.

Learned counsel for the State has filed a detailed reply by way of an affidavit of Mukesh Kumar, HPS, Assistant Commissioner of Police, Kalka, Panchkula wherein the State has denied any knowledge of a compromise between the parties. It has further been stated in the reply that the petitioner is a habitual offender and has been involved in a number of criminal cases. In most of the cases, the petitioner was acquitted due to a compromise having been entered into between the parties. Some of the cases are still under trial. It has further been contended by learned counsel for the State that the main accused in the case are yet to be apprehended. The learned State Counsel has further argued that the FIRs which have been filed against the petitioner are for the offences of similar nature and that the petitioner had conspired for murderous assault through hired contract killers. According to the reply, only three Prosecution witnesses out of eighteen have been examined and if the petitioner is released on bail he (the petitioner) may put pressure on them which may thwart a fair trial.

Counsel for the complainant has submitted that the complainant has no grievance against the petitioner and that the matter stands settled.

I have heard learned counsel for the parties.

The petitioner was allegedly involved in the conspiracy of attempt to murder through hired contract killers who are still at large. The reply filed by the State also shows that the petitioner is involved in several cases in Haryana and Himachal Pradesh. Out of eight cases against the petitioner mentioned in the reply, he has been acquitted in five cases on the basis of a compromise. In the present case too, the petitioner has placed reliance upon the compromise Annexure P-3 signed by his brother and the complainant. The State has denied any knowledge of the same. There is also no mention about this compromise in the statement of the complainant Annexure P-8. Counsel for the petitioner and the complainant have not been able to explain as to why the compromise Annexure P-8 was signed by the complainant if the petitioner had no role in the crime and why the complainant withheld the existence of the compromise from the Trial Court when his statement Annexure P-8 was recorded. Moreover, fifteen Prosecution witnesses are yet to depose before the Trial Court and this Court finds substance in the argument by the State that if the petitioner is released on bail there is likelihood of him influencing or pressuring these Prosecution witnesses.

In view of the discussion above, I do not deem this to be a fit case for grant of bail to the petitioner. The present petition is, accordingly, dismissed.

However, any observation made herein shall not be construed as an expression of opinion on the merits of the case.

April 20, 2021
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(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO