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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-36861-2020 (O&M)
Date of decision-28.09.2021

Sharwan

...Petitioner

Vs.

State of Haryana

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Himmat Singh Deol, Advocate for the petitioner.

Mr. Sukhdeep Parmar, DAG, Haryana.

MANOJ BAJAJ, J.

CRM-30524-2021

For the reasons mentioned in the application, the same is allowed and documents Annexure P-5 to P-8 are taken on record.

CRM-M-36861-2020

Petitioner has filed this petition under Section 439 Cr.P.C for grant of regular bail in case FIR No.13 dated 12.01.2020 registered under Sections 307, 148, 149, 323, 452 and 506 IPC, 1860 and Section 25 of Arms Act, 1959 (offence under Section 452, 148 and 149 stands deleted in the report under Section 173 Cr.P.C. and offence under Section 326 IPC and

Section 27 of Arms Act added) at Police Station Adampur District Hisar.

Petitioner is in custody since his arrest on 22.01.2020.

The allegations in the FIR, as noticed by the learned Additional Sessions Judge, Hisar in the order dated 06.10.2020 are as under:

“Per allegations, on 11.01.2020, Sharwan and Suresh sons of Jogi Ram were spraying their fields. Complainant Dharampal son of Hari Singh asked both of them to keep the spray device lower as his crop in adjoining field was being damaged. Sharwan and Suresh started abusing the complainant. Thereafter, complainant went back home. They continued to spray their fields. At about 6.00 PM, Sharwan, Suresh, Rashil and Aatam went to his Dhani in his absence and started abusing his mother, his wife Bimla and Sakila wife of Satpal. They pushed them and enquired about Dharampal and demanded to produce him. Thereafter, they went away. After 20 minutes, the complainant and his brother Satpal came to his house. They were followed by their cousin Choutha Ram. After ten minutes, Sharwan, Suresh, Rashil and Aatam along with four-five other persons reached there. Sharwan was quarreling with the complainant. Due to fear, he ran away. Sharwan in order to kill the complainant fired a shot from his gun and pellets hit his eyes and other parts of the body. Sharwan fired another shot at Choutha Ram. Cousin of complainant Sushil reached and accused fled away from the spot. Family members took him to Government Hospital, Adampur wherefrom he was referred to MAMC, Agroha but he was brought to Sapra Hospital, Hisar.”

Learned counsel for the petitioner has argued that though petitioner's

name figured in FIR as one of the assailants who fired at injured Dharampal (complainant) and witness Choutha Ram, but during the trial the said material witnesses have been declared hostile. In this regard, he has invited the attention of this Court to their testimonies recorded as PW-5 and PW-6 (Annexure P-6 and P-7 respectively). He has further pointed out that initially there were in all five accused and after completion of investigation, Jogi Ram was found innocent whereas the rest of accused namely Suresh, Rashil, Aatma Ram and Sharwan were sent to face trial. According to him, the remaining co-accused of petitioner have been released on regular bail, and the petitioner is still in custody for the last one year and nine months, but the trial is yet to conclude. He prays for bail.

Learned State counsel assisted by ASI Vinod Kumar has opposed the prayer, who argued that the weapon of offence used in the crime was recovered from the petitioner, and the FSL report indicates that the said weapon was used in the crime. In this regard, he has referred to the reply filed by way of affidavit of Abhimanyu Lohan, HPS, Deputy Superintendent of Police, Detective Hisar. However, it is not disputed by learned State counsel that the material witnesses have been examined and the petitioner is not involved in any other case.

After hearing the learned counsel for the parties and considering the above background as well as the custodial period of the petitioner, this Court finds that though the material witnesses have been examined but the trial is yet to take considerable time to conclude. Therefore, further detention of the petitioner may not be necessary for any useful purpose, particularly when his co-accused have been released on regular bail.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court concerned.

The petition is allowed.

(MANOJ BAJAJ)
JUDGE

28.09.2021
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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No