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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.19 of 2021 (O&M)

Decided on: 11.01.2021

Sandeep @ Kala

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Abhishek Sindhwani, Advocate
for the petitioner.

Mr. Deepak Kumar Grewal, 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.82 dated 30.03.2017, for offence punishable under Sections 307, 34 of the Indian Penal Code, 1860 (in short 'IPC'), 25/54/59 of the Arms Act, registered at Police Station City Julana, District Jind.

Counsel for the petitioner has argued that the FIR was registered on the statement of one Surat with the allegations that his son Naresh had gone out and he was at home when he heard the noise of fire-arm injury. When he came out, he saw that the petitioner – Sandeep @ Kala is holding a pistol with 02 other young boys. His son ran away to escape but the three boys followed him and Sandeep @ Kala fired a shot which hit on the hip of Naresh and the other boy also fired a shot but it did not hit him and thereafter, the accused ran away from the spot.

Counsel for the petitioner has further submitted that the

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petitioner is in custody since 11.10.2017 and one of the co-accused Sunil @ Shila has already been granted the concession of regular bail vide order dated 26.08.2019 passed in CRM-M No.24949 of 2019. It is also submitted that the injured witness Naresh, who appeared as PW-8 and the complainant, who appeared as PW-9, have not supported the prosecution version and were declared hostile and even in their cross-examination, they have even denied any such statement made before the police.

Counsel for the petitioner has also argued that the trial Court has dismissed the bail application only on the ground that the petitioner is involved in some other person, however, cites judgment of the Hon'ble Supreme Court ***“Prabhakar Tewari vs State of U.P. and another”***, 2020(1) RCR (Criminal) 831, to submit that it cannot be a ground to dismiss the bail.

Counsel for the State has not disputed the factual position but opposed the prayer for bail. It is also submitted that out of 31 prosecution witnesses, 10 PWs have already been examined, so far.

Without commenting anything on merits of the case, considering the fact that the co-accused of the petitioner has already been granted the concession of bail; the star witnesses of the prosecution i.e. the victim and the complainant have been declared hostile; the petitioner is in long custody of more than 03 years; the custodial interrogation of the petitioner is not required and the conclusion of the trial will take some time due to COVID-19 situation, 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

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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.

(ARVIND SINGH SANGWAN)
JUDGE

11.01.2021

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Whether speaking/reasoned Yes/No

Whether reportable: Yes/No