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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-732-2022

Date of Decision: 07.05.2022

Kuldeep @ Kuli

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Balraj Gujjar, Advocate
for the petitioner.

Mr. Parveen Kumar Aggarwal, DAG, Haryana.

Mr. Manoj Tanwar, Advocate for respondent No.2.

JASJIT SINGH BEDI, J.(Oral)

The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in a case vide FIR No.60 dated 03.05.2021, registered under Sections 148, 149, 307, 427 and 506 IPC, 1860 and Sections 25, 54 and 59 of the Arms Act, 1959 at Police Station at Police Station Bapoli, District Panipat, Haryana (Annexure P-1).

As per Deepak-complainant, on 02.05.2021, he and his partner Sandeep had parked their car in front of a liquor shop when a number of boys came there in a car, got out and they were armed with sticks, sharp weapons and a pistol. The boys broke the windows of their parked car and injuries were caused to Sandeep, Surender and Nitin with a sword. A boy who was carrying the pistol fired many times with the intention to kill them and gave threats that they had been saved that day but would be killed if another chance was given.

The learned counsel for the petitioner, firstly submits that neither has the petitioner named in the FIR nor has he been named by any of the witnesses namely Sandeep, Surender and Nitin. The name of the petitioner figures, first time, in the disclosure statement of his co-accused. He further submits that complainant-Deepak, Sandeep and Surinder have been examined in Court as PW-1, PW-2, PW-3 and they have not attributed any specific injury to the petitioner. So far as Nitin is concerned, he has turned hostile. He further argues that there is no firearm injury on the injured and he refers to MLRs of Sandeep and Nitin (R-1 and R-2) to buttress his claim. He argues that no recovery has been effected from the petitioner. He also submits that a co-accused, Jony, who is a similarly situated has been granted the concession of regular bail vide order Annexure P-5.

On the other hand, the learned State counsel contends that all the accused were present at the spot and had committed offences in question. He, however, admits that one firearm, allegedly used in the occurrence, was recovered from Sushil @ Babbar and no recovery, whatsoever has been effected from the petitioner. He also admits that there is no firearm injury on the person of the injured. He, however, submits that Nitin who is said to have turned hostile has moved an application under Section 311 Cr.P.C. to get himself re-examine. It was thus, contended that the petitioner does not deserve the concession of regular bail.

I have heard the rival contentions of both the parties.

Admittedly, the petitioner has been in custody since 18.05.2021 and he has not been named in the FIR. His name figures, for the

first time in the disclosure statement of his co-accused. The three main injured witnesses including the complainant have been examined and have attributed no injury to the petitioner. Further there is no firearm injury to any of the injured witnesses. So far as the recalling application moved by witness Nitin is concerned, it would not further the case of the prosecution qua the petitioner because a perusal of the 161 Cr.P.C. statement of Nitin also does not mention any role of the petitioner. Thus, assuming the application under Section 311 Cr.P.C. moved by Nitin was allowed and he was re-examined even in that scenario, the case of the prosecution from the mouth of Nitin would not adversely affect the petitioner in any manner. Even otherwise, 17 prosecution witnesses are cited in the challan out of which 04 have been examined and the co-accused of the applicant-petitioner namely Vijay has been granted the concession of bail vide order dated 25.02.2022. Thus, the further incarceration of the petitioner is not required.

In view of above, without adverting to the merits of the case and keeping in view the fact that the petitioner has been in custody since 18.05.2021, the material witnesses have already been examined and the co-accused of the petitioner is already on bail, I deem it appropriate to enlarge the petitioner on regular bail.

Accordingly, the present petition is allowed. The petitioner is ordered to be released on bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate, Panipat.

Nothing expressed hereinabove would be construed to be an expression of any opinion on the merits of the case.

07.05.2022

JITESH

(JASJIT SINGH BEDI)
JUDGE

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