

230

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

CRM-M No.6763 of 2022 (O&M)

Date of decision: 26.04.2022

Ajay Kumar @ Gupta

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. G.S. Sandhu, Advocate
for the petitioner.

Mr. Deepak 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.340 dated 20.09.2021, for offence punishable under Sections 307, 452, 147, 148, 149 of the Indian Penal Code, 1860 (in short 'IPC') (Sections 323 and 34 IPC added later) and Section 25(1-A) of the Arms Act, registered at Police Station Khedki Daula, District Gurugram.

Counsel for the petitioner has submitted that as per the allegations in the FIR, registered at the instance of Yameen Khan, he is having a food point and on the date of incident, when he was returning back, 07 boys on 03 motorcycles came to his hotel and after having food, paid Rs.810/- and thereafter, out of 07 boys, 05 boys came out and remaining 02 boys started drinking liquor and when the complainant objected, they started fighting and caused injuries to him.

It is further submitted that the petitioner is the first offender and he is not named in the FIR and the petitioner is in custody for the last about 04 months and 22 days. It is also argued that challan stands presented and it will take some time in conclusion of the trial as one of the moot point to be deciding, will be regarding the identity of the petitioner as he is only nominated on the basis of the disclosure statement of the co-accused.

Counsel for the petitioner has also argued that the petitioner was not present at the spot when the second incident took place on the next day when the co-accused of the petitioner namely Gujesh @ Golu and his brother Amit again went to the hotel and fired a gunshot on the victim. Lastly, it is submitted that the petitioner is not involved in any other case and conclusion of the trial will take some time as even charges have not been framed against the petitioner.

Counsel for the State on the basis of the Custody Certificate has not disputed the factual position but opposed the prayer for bail.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody for the last 04 months and 22 days; challan stands presented; the petitioner is not involved in any other case; the custodial interrogation of the petitioner is not required; charges have not yet been framed and the conclusion of the trial will take some time, 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 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

26.04.2022

yakub

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No