

236

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

CRM-M No.7291 of 2022 (O&M)

Date of decision: 28.04.2022

Karambir @ Nihala

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Karan Singh, Advocate for the petitioner.

Mr. Chetan Sharma, AAG, 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.560 dated 09.12.2020, for offence punishable under Sections 397 IPC and 25/54/59 of the Arms Act, registered at Police Station City Jind, District Jind.

Counsel for the petitioner has submitted that as per the allegations in the FIR, registered at the instance of one Raj Kumar that he had gone out of station due to some work and when he was coming back by putting the cash in a black colour bag, 03 young boys came on motorcycle, out of which 02 boys came near to him and one boy remained sitting on the motorcycle. The said 02 boys having pistols in their hands asked the complainant to give the cash and when the complainant resisted, one boy fired with his pistol which hit on his right foot and thereafter, the said boys ran away from the spot, after taking the bag containing Rs.40,000/-. Counsel for the petitioner has argued that the petitioner is in custody for the last 09 months and 16 days and

he has relied upon the statement of the complainant, recorded before the trial Court where he has not identified the petitioner as one of the assailant. It is also submitted that though the petitioner is involved in 02 more FIRs, however, he is on bail in the said cases.

Counsel for the State on the basis of the Custody Certificate has not disputed the factual position but opposed the prayer for bail. Counsel for the State, after going through the statement of the complainant, recorded by the trial Court could not dispute that the complainant has not supported the prosecution version and was declared hostile by the Public Prosecutor and even in the cross-examination, he could not identify the petitioner.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody for the last 09 months and 16 days; the complainant has failed to identify the petitioner; the custodial interrogation of the petitioner is not required 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/Illaq 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

28.04.2022

yakub

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No