

CRM-M-9235-2022

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

CRM-M-9235-2022

Date of decision: 10.03.2022

Rajender @ Leelu

...Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Deepender Singh, Advocate,
for the petitioner.

Mr. Surender Singh, AAG, Haryana.

Mr. Akash Vashisth, Advocate,
for the complainant.

HARNARESH SINGH GILL, J. (ORAL)

Case is taken up for hearing through video conferencing.

Through this fifth petition, the petitioner seeks regular bail in case bearing FIR No.587 dated 21.07.2017, registered at Police Station Sadar Palwal, District Palwal, under Sections 148, 149, 302, 323 and 506 IPC, Section 25 of the Arms Act, 1959 and Sections 324, 307, 325 and 34 IPC (added later on).

Learned counsel for the petitioner contends that initially, the above-noted FIR was registered against 12 accused; that a complaint bearing No.841-Z dated 22.11.2017 was moved to the higher authorities regarding innocence of accused-Dev Dutt and Rajinder alias Leelu (present petitioner); that the inquiry was conducted by the DSP, Palwal, wherein the petitioner and Dev Dutt were found innocent; that a separate application for

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discharge of the above-named two accused was moved before the trial Court; that the trial Court after taking into consideration the documents and the evidence on record; has drawn a conclusion that it could not be stretched to an extent of holding that accused Dev Dutt and the petitioner were innocent, and the question of recovery of a weapon and an injury by one fire-arm was also question of fact and the same would be considered duly once the Court recorded the evidence and accordingly, the discharge report under Section 173(8) Cr.P.C. was declined.

Learned counsel for the petitioner contends that there are two reports before the trial Court, one advocates for the discharge of the petitioner and the co-accused, whereas another report indicts them. The petitioner has been in custody since 21.07.2017. The prosecution witnesses have been examined and the case before the trial Court is fixed for 17.03.2022, for recording the defence evidence.

Learned counsel for the petitioner prays that the petitioner be released on bail to avail an opportunity to put forth his defence regarding his innocence, which has been placed before the trial Court by one of the Inquiry Officers. In support of his contentions, he relies upon the order dated 10.01.2020 delivered by the Hon'ble Apex Court in Ghanshyam Sharma Vs. State of Rajasthan, [Special Leave to Appeal (Crl.) No.5397/2019], wherein a similar plea was considered and granted while releasing the petitioner therein on bail.

On the other hand, learned State counsel, assisted by the learned counsel for the complainant, while opposing the submissions made by the learned counsel for the petitioner, submits that the petitioner is the

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main accused, who had given a fatal blow to deceased-Durga Dutt, and that though all the prosecution witnesses have been examined, yet the petitioner does not deserve the concession of bail, at this stage, for the reason that in case, the petitioner is released on bail, it will hamper the proceedings before the trial Court, in FIR registered way back on 21.07.2017.

I have heard the learned counsel for the parties.

Indisputably, there are two versions of the inquiry officers before the trial Court. In one version, the petitioner has been declared innocent whereas in another, the petitioner was found involved in the present case. All the prosecution witnesses have been examined. The petitioner has been in custody since 21.07.2017. The petitioner is to be given an opportunity to put forth his defence.

Considering the period of custody undergone by the petitioner, but without commenting anything on the merits, lest it should prejudice the case of either side, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail and surety bonds in the sum of Rs.50,000/- with two sureties in the like amount each, to the satisfaction of the trial Court/Duty Magistrate.

10.03.2022

parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No