

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-11229-2021

Date of Decision:-05.04.2022

Nitesh.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Manvinder Sidhu, Advocate with
Mr. A.P. Dhanjkar, Advocate for the Petitioner.

Mr. Vikrant Pamboo, Deputy Advocate General, Haryana.

JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this petition is for the grant of regular bail under Section 439 Cr.PC in case FIR No.0006 dated 17.01.2020 under Sections 307, 379-B and 34 IPC and Section 25 of the Arms Act registered with Police Station GRP Sirsa.

The allegations in the FIR levelled by the complainant Vijay Pal are to the effect that few days prior to the occurrence, the petitioner had assaulted him leading to the registration of the FIR No.10 dated 10.01.2020. On the date of occurrence i.e. 17.01.2020 the petitioner fired on the son of the complainant, namely, Sahil which hit him on the back side. Another shot fired at Sahil by a co-accused missed hitting him.

The Counsel for the petitioner submits that initially the

petitioner and the complainant were close friends but some sort of financial dispute arose between them. He contends that the injured Sahil has since been discharged and is following his daily pursuits. He further contends that in terms of the order of this court dated 3.3.2022 both the complainant Vijay Pal and his son Sahil have been examined as PW-1 and PW-2 and as such if the petitioner is granted the concession of bail, the question of threatening the witnesses would not arise since they have already been examined. He relies upon judgments of Hon'ble Supreme Court in **Dr. Gokarakonda Naga Saibaba Vs. State of Maharashtra 2016(2) RCR (Criminal) 675** as well as of this Court in **CRM-M-27957-2015** titled as **Devender Singh @ Devender Chhabra @ Tintu Vs. State of Punjab Decided on 22.08.2016** to contend that the court can consider the grant of bail once the material witnesses have been examined. He also contends that the petitioner has been in custody since 01.02.2020 and only two out of 27 witnesses have been examined till date. He thus prays for grant of regular bail.

The Counsel for the State on the other hand contends that the petitioner is the main accused and the allegations against him are very serious. He contends that there are three other FIRs pending against the petitioner and thus being habitual offender does not deserve the concession of regular bail. He, however, fairly does not deny the period of custody as also the fact that in the other FIRs pending against the petitioner, he has been granted the concession of regular bail vide orders Annexures P-1 to P-3 respectively.

I have heard the counsel of both the sides at length.

Admittedly, the son of the complainant Sahil, PW-2 and the

petitioner were friends at one time and have fallen out with each other on account of some financial dispute. It is also a fact that both the witnesses have been examined and have otherwise supported the case of the prosecution. Therefore, in case the petitioner is granted the concession of bail, there would be no question of threatening the complainant or the injured witness. It is also a fact that there is nothing to suggest that the complainant is unable to undertake his daily pursuits and is as such hale and hearty. The petitioner is otherwise in custody since 01.02.2020 and has undergone more than two years of incarceration.

Thus, keeping in view the period of custody undergone by the petitioner as also the fact that two main prosecution witnesses already stands examined along with the fact that the trial is not likely to be concluded in near future, the present petition is allowed and the petitioner **Nitesh** son of Sh. Jagdish is ordered to be released on bail subject to the satisfaction of learned CJM/Duty Magistrate, Sirsa.

It is further made clear that petitioner shall appear on the first Monday of every month before the local police station and if any attempt is made by the petitioner to contact either the complainant, injured witness or any other witness, the complainant/State shall be liberty to move an application for cancellation of bail.

(JASJIT SINGH BEDI)
JUDGE

April 05, 2022
Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>