

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

CRM-M-12924-2021
Date of Decision:-**10.11.2022**

RAKESH @ RAKA
... Petitioner

Versus

STATE OF HARYANA
... Respondent

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CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

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Present:- Mr. Kartik Sandal, Advocate
for the petitioner.

Mr. Vishal Kashyap, DAG, Haryana.

Mr. Gaurav Jain, Advocate
for the complainant.

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KARAMJIT SINGH, J. (Oral)

Instant petition has been filed by the petitioner under Section 439 Cr.P.C. for grant of regular bail in case bearing FIR No.168 dated 2.9.2020 registered under Sections 148, 149, 302, 323, 380, 427, 452, 120-B IPC and Section 25 of Arms Act (Sections 459, 440, 325, 212, 395 and 201 IPC added later on and Section 427 IPC deleted during investigation) at Police Station Bhattu Kalan, District Fatehabad.

The counsel for the petitioner submits that the petitioner was not named in the FIR and was later on falsely implicated in the present case and is in custody for the last more than 2 years and 1 month. The counsel

for the petitioner further submits that material witnesses namely complainant-Dinesh Kumar and injured eye-witness Anil Kumar are examined during the trial and copies of their statements are available on the record. The counsel for the petitioner further submits that no weapon or incriminating article was recovered from the possession of the petitioner. The counsel for the petitioner further submits that there are no specific allegations against the petitioner regarding his involvement in the murder of Sandeep. The counsel for the petitioner has further submitted that even during the trial complainant-Dinesh Kumar and injured-Anil Kumar had not specifically named the petitioner and no specific act is attributed to him. The counsel for the petitioner further submits that it will take considerable time for the trial to conclude and as such prayer is made for grant of regular bail to the petitioner.

The instant petition is contested by the State counsel as well as by the counsel for the complainant. Both of them have submitted that the petitioner conspired with the other accused persons and attacked Sandeep and Anil and caused injuries to them as a result of which Sandeep died. It is further submitted that trial is going on. It is further submitted that the complainant and injured eye-witness Anil while appearing in the witness-box have supported the case of prosecution. The counsel for the petitioner further contends that the present petitioner, who is having criminal history was hired by Jaiveer to kill Sandeep and also caused injuries to Anil Kumar. It is further submitted that taking into consideration gravity of offences committed, the petitioner is not entitled to grant of regular bail at this Stage.

I have considered the submissions made by counsel for the parties.

As per the allegations recorded in the FIR on 1.9.2020, complainant-Dinesh Kumar along with Sandeep, Anil and Jasbir was present in the office situated in liquor vend. At about 8/8:15 p.m. three vehicles stopped in front of the office and Ramesh, Leellu Ram, Mewa Singh, Sahil along with 10/12 unknown persons got down from said vehicles. Sahil was armed with pistol while the other persons were carrying fire arms and iron rods and then Ramesh asked them to come out of the office and then aforesaid Ramesh, Leelu, Mewa Singh and Sahil entered the office and then Sahil proclaimed that they are sent by Jaiveer to take revenge and then Ramesh fired from his pistol towards Sandeep and then Leelu, Mewa Singh and Sahil also started firing from their pistols. The shot fired by Ramesh hit in the stomach of Sandeep while shot fired by Leelu hit on the left arm of Sandeep while shot fired by Mewa Singh hit on the right foot of Sandeep while the shot fired by Sahil hit on the wall of office and aforesaid 10-12 unidentified persons armed with iron rods also attacked them and caused injuries on the head and other parts of the body of Anil. They also ransack the entire office and took away amount of ₹2.5 lacs, which was lying in the office. Later on Sandeep died when he was taken to the hospital. Injured Anil was also medico legally examined.

The petitioner was not named in the FIR and was later on nominated as an accused and is in custody for the last more than 2 years and 1 month and is stated to be involved in some other criminal cases. As per the custody certificate, the petitioner is recorded to be on bail in all the other

criminal cases, which are faced by him. The pendency of other criminal cases cannot be considered as impediment for grant of bail to the petitioner in the present case. In this regard reliance is placed on **Prabhakar Tiwari vs. State of U.P. and Another (2020) 11, SCC 648**. During investigation no weapon was recovered at the instance of the petitioner as has been admitted by the State counsel. No specific injury or act has been attributed to the present petitioner. The complainant and material witness namely Anil are already examined and as such there is no apprehension that if released on bail the petitioner is going to influence them. Till date only 4 PWs have been examined and it will take considerable time for the trial to conclude. The complicity of the petitioner will be ascertained by the trial Court at the appropriate stage.

In view of the above, no purpose is going to be served by keeping the accused behind the bars for any longer period. Thus without commenting on the merits of the case, the petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail and surety bonds to the satisfaction of the trial Court/CJM/Duty Magistrate concerned.

(KARAMJIT SINGH)
JUDGE

10.11.2022
Gaurav Sorot

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