

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

CRM-M-14079 of 2021(O&M)

Date of Decision: 18.02.2022

Bharat Singh

Petitioner.

Versus

State of Haryana

Respondent

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr.R. S. Rai, Sr. Advocate
with Mr. Gautam Dutt, Advocate
and Mr. Amitabh Tewari, Advocate
for the petitioner.

Mr. Kiran Pal Singh, AAG., Haryana.

Mr. D.S.Matya, Advocate
for the complainant.

LISA GILL, J.

Petitioner, seeks the concession of bail pending trial in FIR No.43 dated 11.03.2020, under Sections 323, 307, 34 IPC and Section 25 (1b) (A) of the Arms Act, registered at Police Station Sector 65, Gurgaon.

Learned counsel for the petitioner submits that no role has been attributed to the petitioner in the FIR. Injured in this case was admitted to the hospital by the petitioner. The petitioner, it is stated is sought to be implicated on a supplementary statement of the complainant and a disclosure statement of the co-accused namely Ramesh @ Rajesh @ Patel, who had earlier stated that it was he who had fired at the injured after taking the pistol from the present petitioner. However, on the next day i.e., 18.03.2020, an amended statement of Ramesh @ Rajesh @ Patel was recorded wherein he disclosed that it was the petitioner who fired at the victim Dharmender. The complainant in the FIR has stated that his

brother namely Dharmender had a tractor and a safety tank and use to work along with the present petitioner. He received information that his brother was admitted at Artemis Hospital by Shivam and his associates. Complainant reached the hospital and found the petitioner along with Shivam and Patel @ Rajesh present there. Complainant further stated that he was informed by the said accused that all of them had purchased and consumed liquor at the labour camp and as they were dancing, the victim had fallen and his head hit on the brick lying on the ground and he had been taken to Ekta Hospital for treatment and thereafter to Artemis Hospital. Complainant further stated that on enquiry from the doctor, he came to know that his brother had received a gun-shot wound on his head. It is stated that after enquiry at his own level, complainant came to know that the present petitioner along with the co-accused Shivam, Hansu, Patel @ Rajesh had given a gun-shot injury at the head of his brother after quarrelling with him.

Learned counsel has argued that there are vacillating and different versions which are coming forth and there is nothing on record to substantiate the allegations against the present petitioner. The victim, it is stated sustained a single injury on the head and it is a matter of record that the victim, petitioner and other co-accused were on friendly terms with each other. It is submitted that there is in-fact no evidence on record to indicate that it is the present petitioner who has shot the victim, who has unfortunately been unable to depose before the learned trial Court due to the nature of his injury. Recovery of the alleged weapon does not in any manner connect the petitioner with the offence. It is further submitted that there is no other evidence on record to connect the petitioner with the commission of the offence. The petitioner, it is submitted has been in custody since 03.04.2020. Learned counsel submits that the challan in this case has been

presented. There are still fifteen (15) prosecution witnesses to be examined and the complainant in this case has since been examined. It is further submitted that all misunderstandings due to which the petitioner has been named as an accused have since been removed between the parties. Petitioner was falsely involved in another case in which he stands acquitted on 25.02.2011. It is thus prayed that this petition be allowed.

Learned counsel for the complainant submits that there is no objection whatsoever in case this bail application is allowed.

Learned counsel for the respondent-State, on instructions from ASI Satpal Singh, verifies that the petitioner has been in custody since 03.04.2020 and is not involved in any other criminal case except the present FIR and the matter in which he stands acquitted on 25.02.2011. It is further verified that the complainant in this case has been examined. Learned counsel for the State does not deny that the petitioner has been involved in this matter on the disclosure statement of the co-accused and a supplementary statement of the complainant. He is unable to point out that any other specific evidence on record to connect the petitioner with the commission of the offence, at this stage.

There are no allegations on behalf of the State that the petitioner is likely to abscond or that he is likely to dissuade the witnesses from deposing true facts in Court, if released on bail. No useful purpose would be served by keeping the petitioner incarcerated any longer in the facts and circumstances of this case as well as the peculiar conditions created due to the outbreak of pandemic COVID-19.

Keeping in view the facts and circumstances as above as well as the specific stand of the complainant but without commenting upon or expressing

any opinion on the merits of the case, this petition filed by petitioner-Bharat Singh, is allowed. The petitioner be released on bail pending trial subject to his furnishing requisite bail bonds and surety to the satisfaction of the learned Trial Court/Duty Magistrate.

It is clarified that none of the observations made hereinabove shall be construed to be a reflection on the merits of the case. The same are solely confined for the purpose of decision of the present petition.

18.02.2022

s.khan

[LISA GILL]
Judge

Whether speaking/reasoned : Yes/No.
Whether reportable : Yes/No.