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

CRM-M-12336-2022 (O&M)

Date of Decision: 22.09.2022

Sombir

..... Petitioner

Versus

State of Haryana

..... Respondent

CRM-M-17725-2022

Rahul @ Jhajjari

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Aakash Dalal, Advocate,
for the petitioner in CRM-M-12336-2022.

Mr. Amit Khari, Advocate for
Mr. Ramnish Puri, Advocate,
for the petitioner in CRM-M-17725-2022.

Mr. Naveen S. Panwar, DAG, Haryana.

JASGURPREET SINGH PURI, J. (ORAL)

Both petitions have been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioners and are being taken up together for final disposal with the consent of the learned counsels for the petitioners, since both the petitions arise out of the same FIR bearing No.256 dated 08.11.2021, under Sections 307, 285, 120-B & 34 of the IPC and Sections 25/54/59 of the Arms Act, 1959, registered at Police Station Sadar City Dadri, District Charkhi Dadri.

Learned counsels for both the petitioners have submitted that both the petitioners are in custody since 22.11.2021, which is more than 10 months and the investigation of the case has been completed and thereafter, challan has also been presented before the competent Court and some of the witnesses have already been examined including two eye-witness. They further submitted that it is a case where even as per the prosecution story, the complainant, who was sitting in her house then one co-accused, namely, Ankit @ Daddu had come and had fired shot in the air towards her which was missed and there was no injury caused to anybody. They also submitted that it was all concocted story and even during the investigation, no empty cartridge or any kind of evidence was found from the spot. They further submitted that the petitioner were not even named in the FIR and their names have been nominated on the basis of disclosure statement of the aforesaid co-accused, namely, Ankit, who has been named in the FIR and was apprehended. They also submitted that the aforesaid co-accused-Ankit has filed bail application before the learned Trial Court and has been enlarged on bail and primary reason for grant of bail to the aforesaid co-accused-Ankit was that two eye-witnesses, namely, PW1 Keshar and PW2 Poonam while deposing did not support the prosecution version and they were declared hostile and so far as the complainant PW Reshma is concerned, she had not been appearing despite issuance of non-bailable warrants against her, and therefore, the aforesaid co-accused has been granted bail by the learned trial Court. They further submitted that so far as the present petitioners are concerned, they are at much better footing than the aforesaid co-accused, and therefore, they may be considered for the

grant of regular bail.

On the other hand, Mr. Naveen S. Panwar, learned Deputy Advocate General, Haryana has submitted that it is correct that both the petitioners are in custody since 22.11.2021 and the other co-accused, namely, Ankit, who has been named in the FIR, has been enlarged on bail. He has however opposed the grant of bail to the petitioners on the ground that the petitioner, namely, Sombir is involved in 6 more cases and the petitioner, namely, Rahul @ Jhajjari is involved in 10 more cases.

I have heard the learned counsel for the parties.

There is no dispute that both the petitioners have faced incarceration for about 10 months and as per the prosecution story itself, the petitioners were not named in the FIR and they have been nominated on the basis of the disclosure statement of the co-accused, namely, Ankit, who was named in the FIR and it is also not disputed that it is a case of no injury. The arguments raised by the learned State counsel that the petitioners are involved in number of other cases, although is a relevant factor but would not be of any avail to the State in view of the peculiar facts and circumstances of the present case. In the present case, two of the eye-witnesses, namely, Keshar and Poonam, who deposed at the time of trial, did not support the prosecution version and were declared hostile. Even the complainant did not turned up for deposing despite non-bailable warrants have been issued against her, and therefore, in view of the aforesaid facts and circumstances and also considering that the co-accused has been granted bail, this Court is of the view that the present petitioners are on a better footing than the aforesaid co-accused and a mere fact that they are

involved in other cases, cannot become a ground for denial of the bail to the petitioners.

In view of the aforesaid facts and circumstances of the case, this Court deems it fit and proper to grant bail to the petitioners. Consequently, both the petitions are allowed and both the petitioners are ordered to be released on bail on furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned, if not required in any other case.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of present petition.

22.09.2022

Bhumika

(JASGURPREET SINGH PURI)
JUDGE

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| 1. Whether speaking/reasoned: | Yes |
| 2. Whether reportable: | Yes/No |