

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

SR. No.219

**CRM-M-15064-2022 (O&M)
Date of Decision:14.07.2022**

Satish

...Petitioner

Versus

State of Haryana

+...Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr.P.S.Ahluwalia, Advocate,
for the petitioner.

Mr. N.S. Panwar, DAG, Haryana.

JASGURPREET SINGH PURI, J. (Oral)

Status report by way of affidavit of Deputy Superintendent of Police, Tohana, District Fatehabad filed on behalf of respondent-State in Court today, is taken on record.

The present petition has been filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No.120 dated 13.09.2021 under Sections 120-B/147/148/149/302/323/325/307/341/506/285/109 IPC and Sections 25/27/29 of the Arms Act, registered at Police Station Jakhal, District Fatehabad.

It has been submitted by the learned counsel for the petitioner that the petitioner is in custody since 03.11.2021, which is more than 08 months. He further submitted that investigation has been completed and challan has been presented. He further submitted that it is a case where on the face of it, the petitioner was falsely implicated. He submitted that as per the allegations, the complainant/deceased namely Jasbir Singh had lodged

the present FIR against five persons but name of the petitioner was not mentioned in the FIR and specific allegations have been levelled against co-accused to the effect that co-accused Surender Singh @ Billa had given blow on his left leg and Balwinder @ Laddi gave blow of rod on his head and Sandeep @ Lotta was having lathi in his hand and thereafter blow was given on the body of the complainant. Thereafter, the aforesaid Lotta brought a gun and fired in the air. Thereafter, the complainant unfortunately died. He submitted that thereafter disclosure statement was made by the co-accused namely Surender Singh @ Billa in which the petitioner was not named but thereafter the police falsely implicated the petitioner only because of the reason that he is the cousin of the aforesaid Billa and was having a licensed .12 bore gun and his name was nominated on the basis of second disclosure statement of said Surender Singh @ Billa. He submitted that as per the medical reports, which have been attached with the present petition, nobody received any firearm injury and the injury was caused by the blunt weapon. He further submitted that in the above-said affidavit, it has been mentioned that the broken pieces of double barrel gun of the petitioner were recovered from the spot. He referred to recovery memo, whereby a gun was recovered from almirah of the co-accused in a broken condition. Learned counsel for the petitioner has further submitted that even as per the affidavit itself, the broken pieces were recovered on 20.09.2021, whereas the occurrence was of 12.09.2021 and the police had already demarcated the place immediately after the incident and such broken pieces were not found on the spot and there is no justification in the affidavit filed by the State to show that as to how after 08 days broken

pieces were recovered. Thus, he submitted that the present case has been planted against the petitioner.

On the other hand, Mr. N.S. Panwar, DAG, Haryana has submitted that so far as the factual position as stated by the learned counsel for the petitioner is concerned, the same has been reflected in the affidavit filed by the State and it is correct that the incident had taken place on 12.09.2021 and as per the recovery memo with regard to the broken pieces, the same were recovered after 08 days and the FSL report is still awaited. Learned counsel for the State has submitted that it is correct that the petitioner is in custody for the last more than 08 months and investigation of the case has already been completed. No recovery is to be effected from the petitioner. However, the learned counsel for the State has opposed the bail on the ground that the matter is of serious nature.

I have heard the learned counsel for the parties.

As per the learned counsel for the parties, the petitioner is in custody for the last more than 08 months. Even as per the prosecution case, the petitioner was not present at the spot when the incident took place. The only allegation against the petitioner was that he had given his double barrel gun to the co-accused namely Surender Singh @ Billa, who used the said gun in the crime. However, it is yet to be ascertained at the time of trial whether the said double barrel gun was used in the crime or not. Furthermore, it is not the case of the State that in case the petitioner is released on bail, then he may abscond or may influence any witness. Therefore, considering the aforesaid facts and circumstances, the petitioner is entitled for grant of regular bail.

Consequently, the present petition is allowed. The petitioner shall be released on regular bail subject to furnishing bail bonds/surety to the satisfaction of the learned trial Court/Duty Magistrate concerned.

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

(JASGURPREET SINGH PURI)
JUDGE

14.07.2022
mks

Whether Speaking/Reasoned: YES / NO

Whether Reportable: YES / NO