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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.17069 of 2022 (O&M)

Date of decision: 02.05.2022

Mohit

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. R.K. Girdhwal, Advocate
for the petitioner.

Mr. Chetan Sharma, AAG, Haryana.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this 2nd petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.149 dated 25.05.2021, for offence punishable under Sections 307, 34 of the Indian Penal Code, 1860 (in short 'IPC') and 25 of the Arms Act, registered at Police Station Dujana, District Jhajjar.

The earlier one was dismissed as withdrawn.

The new ground for filing this 2nd petition is that some of the prosecution witnesses have been examined and they have not supported the prosecution version qua the identification of the petitioner.

Counsel for the petitioner has submitted that as per the allegations in the FIR, registered at the instance of Sandeep Saini, who was Manager of Ujjivan Bank, on 25.05.2021, he along with the other

officials was present in the Bank and saw through CCTV footage that 02 boys came on a motorcycle and fired gun-shot and the bullet hit the main gate of the Bank and it broke down and thereafter, he informed the incident to the police. It is further submitted that Sandeep Saini i.e. the complainant has been examined as PW-1 and in the examination-in-chief, though, he has stated about the incident, however, with regard to the CCTV footage, he stated that the pen-drive, which was played inside the Court during the deposition, is the same pen-drive which contained the CCTV footage of the incident, however, when he was asked to identify the petitioner Mohit Kumar as well as the co-accused Sumit, this witness stated that he has seen the accused persons but he cannot identify them as an assailants, who fired the gun-shot on the Bank on 25.05.2021. This witness was declared hostile by the Public Prosecutor and in the cross-examination again, he did not identify the petitioner. Similar is the statement of the another witness namely Veerbhan, who has also not identified the assailant. Even another witnesses i.e. PW-4 Manisha and PW-5 Pooja, have not identified the petitioner. Counsel for the petitioner has argued that all the star witnesses have already been examined and even one of the official witness i.e. PW-3 is also examined and therefore, there is no possibility for the petitioner to tamper with the prosecution evidence or influence the prosecution witnesses. It is also submitted that the petitioner is in custody for the last about 11 months and he is not involved in any other case.

Counsel for the State on the basis of the Custody Certificate has not disputed the factual position but opposed the prayer

for bail.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody for the last 11 months; all the star witnesses have already been examined; the prosecution witnesses have not supported the prosecution version; the petitioner is not involved in any other case; the custodial interrogation of the petitioner is not required and the conclusion of the trial will take some time, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

02.05.2022

yakub

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No