

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

CRM-M-22998-2021 (O&M)

Date of decision-25.02.2022

Gaurav

....Petitioner

Vs.

State of Haryana

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. S.S.Nain, Advocate for the petitioner.

Mr. Bhupender Singh, DAG, Haryana.

Mr. Ashok Tyagi, Advocate for the complainant.

MANOJ BAJAJ, J.

CRM-16827-2021

Application is allowed as prayed for.

Main case

Petitioner has filed this petition under Section 439 Cr.P.C for grant of regular bail pending trial in case FIR No.187 dated 27.06.2020 under Section 307 Indian Penal Code, 1860 and Section 25 Arms Act, 1959 registered at Police Station Rai, District Sonipat, who is in custody since his arrest on 27.06.2020.

The contents of the FIR as noticed by the learned Additional Sessions Judge, Sonipat in his order dated 17.03.2021 are as under:-

“The instant prosecution has been launched at the instance of the complainant Vikas @ Narender who disclosed to the police that on 27.06.2020 at about 9.00 A.M. his neighbour Gaurav son of Satish (the

applicant) had parked his car in the street. When he was going to purchase some goods on his bike he felt some obstruction due to the parking of the car. At that time Gaurav and his mother were standing to whom he asked to shift their car, on which they refused to heed his request. After some time he returned from the shop and when he was taking out his Breeza car from his house, his brother Mohan and aunt Saroj asked Gaurav that he (Vikas) was taking out his car, so, he (Gaurav) should move his car to which Gaurav refused to do so. Some altercation took place and at that time he (Vikas) heard the noise of firing. He saw Gaurav had fired at his brother Mohan and aunt Saroj. He fled away from the spot, however, Gaurav fired towards him with the intention to commit his murder, while he was fleeing from the spot. He prayed to take appropriate action against the culprits.”

Learned counsel for the petitioner has argued that as per prosecution, petitioner fired a gunshot upon the complainant hitting on his back of the right shoulder, whereas it was retaliatory action on the part of the petitioner as the firing was opened by the complainant. He submits that on a complaint given by petitioner, cross case also stands registered against the complainant through FIR No.188 dated 27.06.2020 (Anenxure P-2). He submits that the complainant, namely, Vikash @ Narender has already testified before the trial Court as a prosecution witness, therefore, his further custody may not be necessary as still there are 25 witnesses to be examined by prosecution. He prays for bail.

On the other hand, learned State counsel assisted by ASI Naresh assisted by complainant, does not dispute the above facts narrated by learned counsel for the petitioner. He further states that indeed the complainant/injured stands examined and the case is now

coming up before the trial Court for recording prosecution witnesses on 25.03.2022.

Considering the above background, petitioner's custody and the fact that the material witnesses has already examined, whereas the remaining witnesses are official witnesses and at present there does not appear to be any possibility of their being won over, this Court is of the opinion that further detention of the petitioner behind the bars may not serve any useful purpose, who is presently confined in judicial custody after his arrest on 27.06.2020.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court concerned/Duty Magistrate.

The petition is allowed.

25.02.2022

vanita

**(MANOJ BAJAJ)
JUDGE**

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No