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

CRM-M-24036-2022

Date of Decision: 12.10.2022

Sahil

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Aman Pal, Advocate,
for the petitioner.

Mr. Naveen S. Panwar, DAG, Haryana.

JASGURPREET SINGH PURI, J. (ORAL)

The present is the third petition filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case bearing FIR No.275 dated 21.12.2019, under Sections 186, 307, 353 & 34 IPC and Section 25 of the Arms Act, 1959 registered at Police Station Sector-13-17, District Panipat.

Mr. Aman Pal, learned counsel for the petitioner has submitted that this is the third successive bail petition. He further submitted that he earlier filed a bail petition before this Court which was dismissed on 21.09.2020 and also submitted that it was observed by this Court that the custody of the petitioner at that point of time was 9 months and no witness was examined. He also submitted that thereafter he filed another petition which was withdrawn on 30.09.2021 and at that point of time also no

witness was examined. Learned counsel for the petitioner has submitted that now even more than one year has elapsed since the second petition was withdrawn and thereafter, only 3 witnesses have been examined including the examination-in-chief of the complainant. He further submitted that there has been a delay in the trial with the result that the petitioner has faced incarceration for 2 years and 9 months and has submitted that in view of the aforesaid facts and circumstances, the successive bail petition would be maintainable not only on the ground that now 3 witnesses have been examined but also considering the long custody of the petitioner.

Learned counsel for the petitioner has further submitted that it is a case of no injury to anybody and the allegations were that three boys, alighted from the car and then fired shot at the complainant, who was a policeman and one of the co-accused, namely, Pankaj was arrested on the spot. So far as the present petitioner is concerned, his name surfaced on the basis of disclosure statement made by the aforesaid co-accused, namely, Pankaj. He also submitted that the aforesaid co-accused-Pankaj has already been extended the benefit of regular bail by this Court in CRM-M-42357-2022 on 20.09.2022. While referring to the aforesaid order as well, he submitted that as per the allegations were when the boys alighted from their car, one of them fired from the weapon in his hand which hit the window of the vehicle of the police, and thereafter, the police party fired on the foot of the co-accused, namely, Pankaj, who fell down and the other two co-accused fled away. He further submitted that the entire prosecution story was concocted story in view of the fact that when the challan was presented, there is nothing to show that the police vehicle was ever got examined from

any mechanic nor any material or document was attached in the challan to show that the police vehicle was either damaged or received any fire-arm and therefore, it was all a stage managed show by the complainant, who was a policeman. He also submitted that apart from the above, the petitioner has already faced incarceration for about 2 years and 9 months, and therefore, he may be considered for the grant of regular bail.

On the other hand, Mr. Naveen S. Panwar, learned DAG, Haryana has stated that it is correct that the petitioner has faced incarceration for about 2 years and 9 months and now only 3 witnesses have been examined. He further submitted that it is also correct that the other co-accused, namely, Pankaj, who was caught on the spot, has been extended the benefit of regular bail by this Court. He also submitted that the petitioner is involved in one more case. He further submitted that so far as the argument raised by the learned counsel for the petitioner that along with the challan there was no material to show that the police vehicle ever received any kind of damage by fire-arm as so stated in the FIR, on basis of which, the entire FIR was registered, there is neither anything on the record to show nor any mechanic has been cited as witness nor any police vehicle was got checked up from any mechanic in this regard.

I have heard the learned counsel for the parties.

The petitioner has faced incarceration for about 2 years and 9 months. The other co-accused, namely, Pankaj was granted bail by this Court while considering all the aforesaid factors that the entire prosecution story was that one of the co-accused had fired from the fire-arm which damaged the police vehicle but there was nothing on the record nor

anything was attached with the challan to substantiate the same nor was the vehicle got examined by any mechanic. The aforesaid factors cannot be ignored at the time of consideration for grant of regular bail. So far as the maintainability of the successive bail petition is concerned, the present petition would certainly be maintainable in view of the aforesaid facts and circumstances that when the second bail petition was withdrawn which is almost one year ago, and thereafter, only 3 witnesses have been examined and the custody of the petitioner is 2 years and 9 months.

In view of the aforesaid facts and circumstances, this Court deems it fit and proper to grant bail to the petitioner. Consequently, the present petition is allowed and the petitioner is ordered to be released on bail on furnishing bail bond/surety bond 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.

12.10.2022*Bhumika***(JASGURPREET SINGH PURI)
JUDGE**

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