

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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**CRM-M-25071 of 2022
Date of Decision:25.07.2022**

Sunder

---Petitioner

versus

State of Haryana

---Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: Mr. Naveen Kumar, Advocate
for the petitioner
Mr. Himmat Singh, DAG, Haryana

VINOD S. BHARDWAJ, J. (ORAL)

The instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case FIR No.607, dated 02.10.2021 under Sections 307, 452, 506, 120-B read with Section 34 of the Indian Penal Code, 1860 and Sections 25 and 27 of the Arms Act, 1959, registered at Police Station Shivaji Colony, District Rohtak.

The present case was registered on the complaint of complainant Sumit son of Ombir, who reported to the police that they are two brothers and two sisters. He is the younger. About 1½-2 years ago, Himanshu @ Bhau had fired on his uncle and a case was registered in this regard and he along with his uncle used to visit in Court. On 01.10.2021 at about 8.00 PM he was sitting in his house and was taking food and his mother was preparing food and three boys came in the street on motor-cycle with muffled faces. Out of the three boys, one boy remained on the motor-cycle and two entered the house. They were armed with pistols. One of them with intention to kill him pointed pistol towards the complainant

and he suddenly stood up. In the meantime, one boy fired upon him which hit on his private parts and he scuffled with him and his mask was pulled down. Complainant recognized that he was Himanshu @ Bhau. His brother raised hue and cry and then another boy fired towards his mother which crossed over her head. His mother raised hue and cry and both of them fled away from the spot on the motor-cycle. They threatened to kill his family members if he helped his uncle. In the day time Sahil son of Kailash and Sunder son of Raj Singh (petitioner herein) were roaming around his house.

Learned counsel appearing for the petitioner contends that the petitioner has been falsely implicated in the aforesaid case. He further submits that the petitioner has not caused any injury to any person and no overt act is attributed to him. He further argues that the only role attributed to the petitioner is that he had carried out a reccee and is alleged to be present at the spot and to help the other co-accused persons escaped from the place of incident on the motorcycle that was being driven by the petitioner. It is argued that recovery of the motorcycle has not been effected from the petitioner and that he is not involved in any other case. Besides, Rohit, co-accused of the petitioner has already been granted regular bail by this Court vide order dated 06.07.2022 in CRM-M-27716 of 2022. It is submitted by the learned counsel that total 34 witnesses have been relied upon by the prosecution and that no evidence has been recorded so far.

Learned State counsel, on the other hand, contends that the petitioner was the person who has carried out the reccee so as to facilitate commission of offence and also actively participated in ensuring that they were able to escape from the place of incident. It is, however, not disputed by the learned State counsel that the petitioner does not have any criminal

antecedents and that no recovery i.e. either of the weapon or of the motorcycle alleged to have been used by the petitioner, has been effected from the petitioner. It is also not disputed that the evidence in the case has not been recorded so far and that the co-accused of the petitioner has already been released on regular bail.

I have heard learned counsel appearing on behalf of the respective parties and have gone through the record with their assistance.

Taking into consideration the circumstances noticed above, the actual custody period of approximately 10 months undergone by the petitioner, his clean antecedents, absence of any recovery, stage of the trial and the fact that concession of regular bail has been extended to co-accused Rohit vide order dated 06.07.2022 passed in CRM-M-27716 of 2022, the instant petition is allowed and the petitioner is ordered to be released on bail on his furnishing requisite bail bond/surety bond to the satisfaction of the Trial Court/Duty Magistrate, concerned.

It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

The observation made hereinabove shall not be construed as an expression on the merits of the case and the trial Court shall decide the case on the basis of available material.

The petition is allowed.

(VINOD S. BHARDWAJ)
JUDGE

25.07.2022

PARAMJIT	Whether speaking/reasoned	:	Yes
	Whether reportable	:	Yes/No