

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

220

**CRM-M-27716-2022
Date of Decision: 06.07.2022**

ROHIT

... Petitioner

Versus

STATE OF HARYANA

... Respondent

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

Present: Mr. Rakesh Nehra, Sr. Advocate with
Mr. Atul Ravish, Advocate for the petitioner.

Mr. Kanwar Sanjiv Kumar, Asstt. A.G., Haryana.

VINOD S. BHARDWAJ, J. (ORAL)

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.

Learned counsel appearing on behalf of the petitioner *inter alia* contends that the the FIR in the present case was registered on the statement of one Sumit son of Ombir resident of Village Ritoli and as per the gist of the said FIR, they had an old enmity with one Himanshu @ Bhauu, who is a resident of his village and had caused fire arm injury to the Chacha of the complainant due to which a case had already been registered. Since the

petitioner used to accompany his Chacha in the Court proceedings, hence, on the date of incident i.e. 01.10.2021, when the complainant was having his food, two persons are stated to have entered into the house while one person kept standing outside on the motorcycle. One of the boys pointed his pistol and fired a shot. The said boy was grappled by the complainant and was identified to be Himanshu @ Bhaau. The second boy is stated to have also fired a shot towards the complainant's mother, which grazed her head. An apprehension was also expressed in the said FIR that Sahil son of Kailash and Sunder son of Raj Singh had been seen in front of the house earlier during the day time and a suspicion was raised that they must have conducted a recce of the house of the complainant.

On the aforesaid statement of the complainant, the suspect namely Sunder was arrested by the police on 04.10.2021. A disclosure statement of the said Sunder was recorded by the police wherein, it was narrated by him that as a matter of fact, the two boys who had entered the house of the complainant were Mohit @ Khalifa and Rohit (petitioner herein). He contends that Mohit @ Khalifa has already been arrested and that one weapon was recovered from his possession. He further submitted that the second weapon was given by him to another person Bijender, who has also since then been arrested and a case under the Arms Act stands registered against the said person. Learned counsel contends that after the disclosure statement of Sunder, a supplementary statement of the complainant was recorded wherein the name of the petitioner was incorporated by the complainant himself. He submits that

the petitioner is in custody since 09.10.2021 and has no criminal antecedents. It is further pointed out that the investigation in the present case is complete and challan stands presented, however, the charges have not been framed so far. Conclusion of the trial might take long time.

Mr. Kanwar Sanjiv Kumar, Asstt. A.G., Haryana opposes the prayer made by counsel for the petitioner and submits that the petitioner had participated alongwith Mohit @ Khalifa in the commission of the offence and had fired a gun shot that caused injury by grazing across the head of Savitri (mother of the complainant). It is, however, not controverted by the learned State counsel that no recovery of the weapon used in the commission of the offence had been effected from the petitioner. It is also not disputed by the learned State counsel that the petitioner does not have any criminal antecedents.

Taking into consideration the facts noticed above, stage of trial, the role attributed to the petitioner, the absence of any recovery from the petitioner as also the clean antecedents of the petitioner coupled with the period of actual custody already undergone by the petitioner, I deem it appropriate to allow the present petition.

Accordingly, the present petition is allowed and the petitioner is admitted to regular bail subject to his furnishing bail/surety bonds to the satisfaction of 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 observations 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.

Petition stands allowed accordingly.

(VINOD S. BHARDWAJ)
JUDGE

06.07.2022
rajender

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