

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

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**CRM-M-30101-2022
Date of decision: 20.07.2022**

HAPPY

....Petitioner

Versus

STATE OF HARYANA

...Respondent

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

Present : Mr. Parveen Sharma, Advocate
for the petitioner.

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

VINOD S. BHARDWAJ. J. (ORAL)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case bearing FIR No.199 dated 10.09.2020 registered under Sections 307, 34 and 384 of the Indian Penal Code, 1860 (hereinafter referred to as IPC”) and Section 25 of the Arms Act, 1959 (Section 394 of the IPC was added and Sections 384 & 34 of the IPC deleted) at Police Station City Safidon, District Jind.

2. The facts, necessary to dispose of the present bail application are that initially the present FIR was registered on the statement of Sumit son of Manmarup r/o Sahanpur, wherein he has stated that:

“ He is resident of above said address and is student of B.A. 1st year. On 01.09.2020, at about 7: 30 PM, he was sitting in the grocery and sweet shop of his uncle Rohtash

s/o Maman r/o Sahanpur. He was inside the shop and his uncle Rohtash was sitting on the counter. Four young boys came on one motorcycle Splendor, whose driver was wearing Helmet and the other three boys, who were pillion riders, were in muffled faces. Those three boys came to the counter of their shop and started demanding money from his uncle. When his uncle resisted, two boys out of them started beating his uncle and out of them one boy, who was having pistol in his hand, fired 2/3 shots upon his uncle with intention to kill him and one bullet hit on the shoulder of his uncle. On raising alarm by him, all the four boys fled away from the spot on their motorcycle. Thereafter, he shifted his uncle Rohtash to Civil Hospital, Safidon after arranging conveyance. His family members also came there. Due to the injuries, his uncle was referred to PGIMS, Rohtak. Thereafter, they shifted him (Rohtash) to PGIMS, Rohtak. The entire incident is recorded in CCTV Camera installed in their shop. Legal action be taken against the four unknown boys.

During investigation, Section 394 of IPC was added and Sections 384, 34 of the IPC were deleted. On 19.01.2021, accused Sunil alias Sushil alias Shilu and Happy son of Ramesh (applicant/accused) were arrested and they made disclosure statements. On 07.04.2021, accused Himanshu alias Rubal was arrested and he made disclosure statement. On 03.08.2021, accused Deepak alias Bhanja was arrested and he made disclosure statement.”

3. Learned counsel appearing on behalf of the petitioner contends that the petitioner is not named in the FIR and that as per the allegations leveled, 04 boys had fled away from the spot on the motorcycle after firing the shot on uncle of the complainant. The name

@ Shilu. He contends that the petitioner is in custody since 19.01.2021 and that the investigation in the case has already been completed. However, no evidence has been recorded so far, even though petitioner has undergone an actual custody of about one and half years since his arrest.

4. Learned counsel appearing on behalf of respondent-State however points out that the petitioner is involved in the three other cases and thus has criminal antecedents. He further contends that participation of the petitioner is duly established and his name has figured in the disclosure statement.

5. Learned counsel appearing on behalf of petitioner however points out that no recovery in the present case has been effected from the petitioner and that insofar as the other three cases are concerned, the petitioner already stands acquitted in case bearing FIR No. 155 dated 01.09.2011 while in the remaining two cases that have been registered under the Arms Act, he has already been granted concession of bail.

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

7. Without examining the merits of the instant case and taking into consideration, the period of custody already undergone by the petitioner, the stage of the trial, the absence of any recovery from the petitioner and the fact that the Investigation already stands concluded, I deem it appropriate to enlarge the petitioner on bail to the satisfaction of the trial Court.

8. 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.
9. 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.
10. 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

JULY 20, 2022
vishal sharma

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