

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

208

CRM-M No.42740 of 2021
Date of decision:07.07.2022

Bhupender @ Nonu

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Aditya Sanghi, Advocate for the petitioner.

Ms. Deepshikha Chauhan, AAG, Haryana.

SUVIR SEHGAL J. (ORAL)

This is the second petition filed by the petitioner under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail in case FIR No.537 dated 20.07.2020 registered for offences under Sections 120-B, 148, 149, 302 and 341 of IPC, 1860, and Section 25 of the Arms Act, 1959, at Police Station HTM, Hisar, Annexure P-1.

Version of the prosecution is that FIR, Annexure P-1, has been registered on the statement of Om Parkash on the allegation that when his younger son Mukesh was coming back home, he was waylaid by 06-07 boys, who were on a motorcycle and were armed. Sumit @ Poli fired a shot at his son, who dropped the scooty and ran towards a by-lane to save himself. However, Balram, Gulshan and 03-04 other boys also fired at him and he fell down. The complainant and Abhishek, who witnessed the incident, raised an alarm, upon which the accused fled away on their motorcycles. The complainant arranged a vehicle and took his son to a hospital, but he expired.

Counsel for the petitioner urges that the petitioner is neither named in the FIR, Annexure P-1, nor was he with the assailants. His case is that the petitioner is alleged to have arranged the arms for the crime. Counsel submits that the first petition filed by the petitioner (CRM-M-22920-2021) was withdrawn vide order dated 20.08.2021, Annexure P-3, by moving an application before this Court, with liberty to file a fresh one before the trial court after the framing of the charge. Counsel submits that thereafter charge was framed on 30.09.2021 and 03 out of 31 prosecution witnesses have been examined. He submits that the petitioner, who has been in custody since 27.07.2020 and barring a matrimonial dispute, enjoys a clean past, deserves to be enlarged on bail as he is no longer required for custodial interrogation.

Per Contra, State counsel, upon instructions from ASI Sandeep Singh, and by making a reference to the status report filed by way of an affidavit of Deputy Superintendent of Police, Hisar-I, has admitted the fact that the petitioner was not present at the spot, though she submits that he acted in connivance with co-accused and has aided the crime. She submits that the recovery of motorcycle has been effected from him. Still further, she has opposed the petition by stating that the the complainant, who is the most crucial witness, is yet to be examined.

Having heard counsel for the parties, this Court is *prima facie* of the opinion that keeping in view the role ascribed to the petitioner, who has been behind bars for the last more than 01 year and 11 months, he deserves to be enlarged on bail as the trial is at a nascent stage as the prosecution has barely examined three witnesses.

Without adverting to the merits or de-merits of the arguments addressed by counsel for the parties, petition is allowed. Petitioner is ordered to be released on bail on furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

It is clarified that any observation made hereinabove shall not be construed to be an expression of opinion on the merits of the case.

07.07.2022

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(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No