

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.214

CRM-M-49656-2021(O&M)
Date of decision: 19.07.2022

SANCHIT MARWHA

....Petitioner

Versus

STATE OF HARYANA

....Respondent

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

Present: Mr. Vinod Ghai, Sr. Advocate with
Ms. Kanika Ahuja, Advocate
for the petitioner.

Mr. Ashish Yadav, Addl. AG, Haryana.

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VINOD S. BHARDWAJ, J. (Oral)

The instant petition has been filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in case bearing FIR No.153 dated 19.03.2020 registered under Sections 307, 34 and 120-B of the Indian Penal Code, 1860 and Section 25 of the Arms Act, 1959 (Section 120-B of Indian Penal Code has been added later on) at Police Station Shahbad, District Kurukshetra, in the interest of justice.

“The present case was registered against the accused and the case of the prosecution is that, on 19.03.2020 at about 6:00 p.m., three unknown persons having muffled faces attacked the complainant (a wine contractor) while the complainant was present in his office. Gun shots were fired but the complainant escaped. An injury was sustained by the complainant as a piece of mirror/glass hit the complainant on the left side of his head. After availing first aid, the complainant was discharged on the

same day. On these allegations, the present FIR under Sections 307/34 and 120-B of IPC and Section 25 of Arms Act was registered.”

Learned counsel for the petitioner contends that the name of the petitioner figured in the disclosure statement of the co-accused namely Major Singh and Gagandeep Singh, who have already been granted the concession of regular bail. He contends that as per the case of the prosecution, petitioner is one amongst the three assailants. From the spot seven empty cartridges were recovered and that the fire arms were recovered from the co-accused and not from the petitioner. He contends that the injury attracted under Section 307 IPC is not as a result of the fire injury, however, it was sustained on account of the glass splinters, due to the impact of the fire arm. It is also pointed out that the petitioner is in custody since 12.04.2021 and has already undergone an actual custody of about 01 year and 03 months in the present case. It is contended that even though there are certain other cases that have been registered against the petitioner, however, he is on bail in all the other cases except for the present case. He further contends that there are a total of 23 witnesses cited by the prosecution and that only three witnesses have been examined so far.

Learned State counsel, however, contends that the petitioner suffers from criminal antecedents and that his name duly cropped up in the disclosure statement of the co-accused. He, however, could not controvert the said fact that there is no recovery effected from the petitioner insofar as the participation in the present offence is concerned and the weapon of offence used in the commission of the crime has been effected from the said co-accused to whom the concession of regular bail has been granted by the trial Court. It is also not disputed that the petitioner has already undergone

an actual custody of 01 year and 03 months in the present case and that only

three witnesses out of a total of 23 witnesses have already been examined.

I have heard learned counsels for the respective parties and taking into consideration the period of custody already undergone by the petitioner in the present case and also the stage of the trial along with absence of any recovery or active participation as well as the fact that the complainant, while deposing as PW3 has not identified the petitioner, I deem it appropriate to enlarge the petitioner on bail.

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

19.07.2022
Amandeep

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No