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

CRM-M No. 51422 of 2021 (O&M)
Date of Decision: 29.03.2022

Manoj

-Petitioner

Vs

State of Haryana

-Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Yashveer Kharb, Advocate,
for the petitioner.

Mr. Vishal Malik, D.A.G., Haryana.

Mr. Munish Garg, Advocate,
for the complainant.

RAJ MOHAN SINGH, J. (ORAL)
CRM-11513-2022

For the reasons mentioned in the application, the same is allowed and the accompanying documents are taken on record, subject to all just exceptions.

Main case

Petitioner seeks grant of regular bail in his third attempt under Section 439 Cr.P.C. in case bearing FIR No.12 dated 22.01.2020 under Sections 307 and 34 IPC and under Section 25 of Arms Act (Offence under Section 452 IPC added later on) registered at Police Station Sadar Bhadurgarh, District Jhajjar.

CRM-M No.21970 of 2020 was got dismissed as withdrawn on 14.08.2020. Thereafter, CRM-M No.29466 of 2021 was also got dismissed as withdrawn on 04.08.2021.

FIR was lodged by the complainant- Dinesh with the allegations that they are two brothers. Both are unmarried. Father of the complainant had already expired. On 22.01.2020, in the morning, at about 6 A.M., the complainant had gone to his plot for milking the buffaloes. The plot is situated in front of the house itself. Brother of the complainant and his mother were sleeping in different rooms of the house. The complainant heard the noise of gun shot firing from his house. He saw that the petitioner and Chand were firing upon his mother and his mother was shouting that the complainant should run away. Thereafter, the assailants namely Manoj and Chand went away from the spot. Mother of the complainant was found to be injured and blood was oozing out from her body.

Learned counsel for the petitioner submits that the petitioner is in custody since 21.02.2020. Injured has recovered fully.

During course of investigation, Chand was found to be innocent and co-accused Manish was arrested. On the basis of disclosure statement of Manish, petitioner was arrested and country made pistol was recovered from him. Petitioner is a

cousin of the complainant and there is a land dispute pending between them.

Learned counsel for the complainant submits that both the parties are collateral and now an amicable resolution of dispute has been arrived at between the parties and the complainant has no objection in case the petitioner is released on bail.

Learned State counsel, however, opposed the bail on the ground that weapon has been recovered from the petitioner and the weapon has a matching configuration with that of pellets recovered, in terms of FSL report. Learned State counsel, however admits that no PW has been examined so far. 20 witnesses have been cited by the prosecution. Challan was submitted on 29.04.2020.

The complainant party has not come forward to depose in the Court for which non-bailable warrants have been issued against the complainant.

Perusal of order dated 09.03.2022 would show that no PW was present. Bailable warrants were issued against the complainant and Kamlesh which were received back duly executed. Now they have been summoned through non-bailable warrants of arrest for 02.05.2022.

Keeping in view the period of custody, the stage of trial and also in view of statement made by learned counsel for the complainant, I deem it appropriate to consider the prayer of regular bail of the petitioner at this stage, as there is every likelihood that the complainant party may not support the case of the prosecution.

Without meaning anything on the merits of the case, the petition is allowed. Petitioner is directed to be released on regular bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of trial Court/concerned Duty Magistrate.

Nothing expressed hereinabove would be construed to be an opinion on the merits of the case.

29.03.2022
Jyoti Sharma

(RAJ MOHAN SINGH)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No