

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

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**CRM-M NO.48008 of 2022
Date of Decision: 08.12.2022**

SUMMER @ BHURIA

.....Petitioner

Vs

STATE OF UT CHANDIGARH

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr.Namit Khurana, Advocate
for the petitioner.

Mr.Akashdeep Singh, Addl.P.P.U.T.Chandigarh

RAJ MOHAN SINGH, J.(Oral)

The petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.272 dated 04.09.2019, registered under Sections 302, 307, 34 IPC and Section 27 of the Arms Act at Police Station Sector 17, U.T.Chandigarh.

FIR was registered at the instance of the complainant Rohit Kumar with the allegations that on 04.09.2019, he had come to Sector 17, Chandigarh for his personal work. At about 3.15 pm, he was sitting in his car in the parking of District Court, Sector 17, Chandigarh. Suddenly he heard the gun shot and came out of the car and saw that 3-4 boys were running towards him, who were looking perplexed. The complainant tried to catch hold of one of the boys, who took out weapon from his bag carrying on his back and pointed out towards the complainant. Complainant became frightened and all the 3-4 boys fled away in a auto towards bus stand chowk, Sector 17, Chandigarh. The complainant tried to follow them. One passerby asked him to take the injured to the hospital. As soon

as the complainant reached near the injured, the PCR vehicle took away the injured to the hospital. Thereafter, the complainant came to know that one more boy had received the bullet injury. On reaching the PGI, Chandigarh, complainant came to know that the injured Tejinder had died and other injured person was admitted in PGI Trauma Centre, whose name was Sandeep.

Learned counsel for the petitioner with reference to the statements of PW-1 and PW-2 submits that PW-1 Sandeep has not supported the case of prosecution qua all the accused involved in the occurrence, whereas, PW-2 Rohit Kumar has not supported the case of the petitioner qua the petitioner. Learned counsel further submits that the cross-examination of the aforesaid witnesses could not yield any incriminating material against the petitioner.

Learned State counsel, on the other hand, submits that out of 42 prosecution witnesses, two witnesses have been examined fully. The prosecution witnesses, namely, Sanjay and Vijender Giri are also the material witnesses, who are yet to be examined. Sanjay is also an eye witness though not named in the FIR and Vijender Giri is the auto driver, who had allegedly identified three of the accused persons in police custody. At that time, the petitioner was not arrested and therefore, there was no occasion for him to identify the petitioner.

The prosecution witness, namely, Sanjay has not been joined in any test identification parade. The alleged identification of the accused by Vijender Giri would be tested by the trial Court with reference to the material on record and also at the threshold of Section 54 (A) Cr.P.C.

The petitioner is in custody since 13.02.2020. Only two prosecution witnesses have been examined out of 42

witnesses. The trial of the case may take some time in its culmination. One of the two juvenile co-accused, namely, Amit Grover has already been granted regular bail by High Court vide order dated 19.06.2020 passed in CRM-M No.14103 of 2020.

In view of the facts and circumstances of the case and without adverting to the merits of the case, I deem it appropriate to enlarge the petitioner on regular bail.

In view of above, this petition is allowed. The petitioner is ordered to be released on bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate.

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

(RAJ MOHAN SINGH)
JUDGE

December 08, 2022
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Whether speaking/reasoned Yes/No

Whether reportable Yes/No