

216

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

CRM-M-279-2023

Date of decision: 27.04.2023

Dev

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Sanjeev Kodan, Advocate
for the petitioner.

Ms. Gaganpreet Kaur, AAG, Haryana.

NAMIT KUMAR, J. (ORAL)

CRM-18688-2023

Application under Section 482 Cr.PC for placing on record
affidavit dated 03.04.2023 of the complainant as Annexure P-7, has been filed.

In view of the averments made therein, same is allowed. Affidavit is taken on record. Office to tag the same at appropriate place.

CRM stands disposed of.

Main case

1. This petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case FIR No.360 dated 28.10.2020 under Sections 120-B/148/149/307/323/506 of IPC, 1860 and Sections 25/54/59 of Arms Act, 1959 registered at Police Station Beri, District Jhajjar.

2. That the brief facts of the prosecution case are that the complainant, who was a retired Army Officer and a Hotelier, in District Jhajjar had two sons. That 3-4 days before the moving of the complaint dated 28.10.2020 or the occurrence of the offence, Manish @ Pusiya and Umesh @ Pistol, were seen beating Sachin S/o Sanjay. The said Sachin was rescued by

the complainant and had returned to his hotel, on the same date. However, after some time, father, namely Satbir of Umesh @ Pistol along-with his brother, namely Zile Singh (of the complainant), came to his hotel and expressed grievance about the fact that as to why he came to the rescue of Sachin and why not, he and his family, be done to death. As such, on 27.10.2020 (i.e. on the previous date, of making the complaint), at about 4.00 PM, one Sumit S/o Om Parkash came, to the house of the complainant and said that he had received a phone call from Dev S/o Dharmender (petitioner), who had asked him (i.e. Sumit) and Ashish (son of the complainant), to meet him (petitioner), at Safipur Stadium, upon which, the complainant expressed his intention, to go along-with them but Sumit and Ashish went without him, in a car. The complainant later on, went to the Stadium, on his motor-cycle, just for a ride but on reaching there, at about 5:30 p.m., he (i.e. the complainant) noticed that Manish @ Pusiya; Umesh @ Pistol; Dinesh @ Kallu @ Bhanja and Sandeep @ Bhanga along-with 3-4 more boys were talking to his son, namely Ashish and his friend, namely Sumit and that suddenly, Dinesh took out a pistol from his pocket and shot, in the stomach of Ashish, with an intention to kill him. Then Manish @ Pusiya also took out a gun from his pocket and shot, in the stomach of Sumit. Immediately, the complainant ran to their rescue but he was warned to be done to death, as well. The other boys after giving beatings to Ashish and Sumit, fled. The injured were taken, to the Kainos Hospital, at District Rohtak, where both were given the treatment. The FIR was registered, on the basis of the complaint, lodged. The investigation was set into motion. The persons named in the complaint/FIR, were arrested, on the basis of their disclosure statements and recovery of pistols and live cartridges was effected from them.

3. Learned counsel for the petitioner submits that the petitioner has

been falsely implicated in the present case. He further submits that no injury has been attributed to the petitioner and to prove the above said assertion he has referred to para No.23 of the status report dated 13.03.2023 filed by the State. He further submits that co-accused Zile Singh and Satbir Singh have been granted concession of regular bail by the Ld. Trial Court vide order dated 14.12.2021 (Annexure P-4) and Umesh @ Pistol and Sandeep @ Bhanga have also been granted concession of regular bail by a co-ordinate Bench of this Court vide orders dated 16.11.2022 and 20.12.2022 passed in CRM-M-17784-2022 (Annexure P-5) and CRM-M-58510-2022 (Annexure P-6), respectively. He further submits that the petitioner is in custody since 27.09.2022 and investigation in the present case is complete; challan has been presented; and trial proceedings are at the stage of framing of charges and case is fixed for hearing for today itself. He further submits that the petitioner is not involved in any other case. Trial may take a considerable time to conclude. Therefore, no fruitful purpose would be served by detaining the petitioner behind bars. He has also referred to the affidavit (Annexure P-7) given by the complainant whereby he has submitted that petitioner was not present at the spot nor attributed any injury to the other side.

4. Per contra, learned State counsel, while placing on record, custody certificate, opposes the prayer for grant of regular bail to the petitioner that the petitioner has conspired with other co-accused. However, she could not dispute that no specific injury has been attributed to the petitioner and investigation in the present case is complete; challan has been presented; charges are yet to be framed. She could not dispute the fact that other co-accused have already been granted concession of regular bail by the Ld. Trial Court and by a co-ordinate Bench of this Court. She submits that petitioner is in custody since 27.09.2022 and the petitioner is not involved in any other case. Trial may take a

considerable time to conclude

5. I have heard learned counsel for the parties and perused the record.

6. Keeping in view the custody of the petitioner, which is 07 months; there is no specific injury attributed to the petitioner; investigation is complete; challan has been presented; charges are yet to be framed; petitioner is not involved in any other case; affidavit (Annexure P-7) furnished by the complainant that petitioner was not present at the spot nor attributed any injury to them and trial is likely to take a considerable time. Other co-accused Zile Singh and Satbir Singh have been granted concession of regular bail by the Ld. Trial Court vide order dated 14.12.2021 (Annexure P-4) and Umesh @ Pistol and Sandeep @ Bhanga have also been granted concession of regular bail by a co-ordinate Bench of this Court vide orders dated 16.11.2022 and 20.12.2022 passed in CRM-M-17784-2022 (Annexure P-5) and CRM-M-58510-2022 (Annexure P-6), respectively.

7. Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

8. Accordingly, the present petition stands disposed of.

9. Nothing observed herein shall be construed as an expression of opinion on the merits of the case of either parties.

27.04.2023

Parveen kumar

(NAMIT KUMAR)
JUDGE

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