

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

CRM-M-2102-2023

Date of decision: 04.05.2023

Suresh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Sachin Kaushik, Advocate
for the petitioner.

Ms. Gaganpreet Kaur, DAG, Haryana.

NAMIT KUMAR, J. (ORAL)

1. This petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case FIR No.116 dated 15.03.2022 under Sections 307, 120-B, 34 IPC and Section 25 of the Arms Act, 1959 registered at Police Station Murthal, District Sonipat.

2. The brief facts of the prosecution are that on 15.03.2022, an information was received in the Police Station Murthal that Sahil son of Shokeen resident of village Dhaturi has been fired upon. On this information SI along with his colleagues went to General Hospital, Sonapat and collected MLR and Ruqqa pertaining to Sahil where a firearm injury was found on the right hip of Sahil. Parcel etc. handed over by the doctor were collected. When Sahil was declared fit to make the statement then his statement was recorded in which he disclosed that he is running a grocery shop. On 15.03.2022 at about 9.30 PM when he went outside his house for fetching water from the tap then a boy for the purpose of killing him fired twice at him from his pistol. One of the shot hit on his right hip and second went past from near of him. Complainant stated that

he ran for shelter inside the house where his father, uncle Salim and other villagers came. The other boy was standing at a small distance from the boy firing shots. The other boy was keeping the motorcycle in running condition. After the incident, the assailants sped on the motorcycle. He provided the suspicious on Sheru son of Bhulan and petitioner who is said to have fired upon him at the instance of Nawab Ali @ Bablu. Further disclosed that dispute between the complainant side and assailants pertaining to a piece of land is going on and earlier these persons also caused injuries to the father of complainant. On 16.03.2022 spot was inspected. Two cartridges case, one fired bullet 32 bore were taken into police possession in a sealed condition. One bullet as handed over by Doctor of Nidan Park Hospital, Murthal Road, Sonapat was taken into police possession as per rules. On 22.03.2022, complainant Sahil with his father Shokeen again came into the police station and stated that Sehnaaj alias Moni with her husband and others in criminal conspiracy has committed the crime. Sehnaaj alias Moni wife of petitioner was arrested on 30.03.2022. Offence under Section 120 B IPC was added. Petitioner was arrested on 05.04.2022.

3. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and the only allegations against the petitioner is that the other co-accused fired shot and the petitioner was present with him along with other persons. He further submits that co-accused namely Nawab Ali has been granted concession of regular bail by this Court vide order dated 10.01.2023 passed in CRM-M-37536-2022 (Annexure P-5) and another co-accused Sehnaaj Khan has also been granted concession of regular bail by a coordinate Bench of this Court vide order dated 31.05.2022 passed in CRM-M-23358 of 2022 (Annexure P-4). He further submits that the complainant/injured Sahil has turned hostile and even father of the complainant/injured namely

Shokeen has also not supported the case of the prosecution and has turned hostile. He further submits that the petitioner is involved in one case also wherein he is already on bail and he has relied upon the judgment of Hon'ble Supreme Court in ***Maulana Mohd. Amir Rashadi Vs. State of U.P. and another, 2012 (2) SCC 382*** to contend that the facts and circumstances of the present case are to be seen while deciding a bail application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in other cases. The relevant portion of the said judgment is reproduced as under:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

Learned counsel for the petitioner further submits that investigation in the present case is complete; challan has been presented; charges have been framed and out of total 16 prosecution witnesses 9 have been examined and the case is now fixed before the trial Court on 06.07.2023. Trial may take a considerable time to conclude. Therefore, no fruitful purpose would be served by detaining the petitioner behind bars.

4. Per contra, learned State counsel, while placing on record, custody certificate, opposes the prayer for grant of regular bail to the petitioner by stating that the petitioner has played an active role in the committing of offence and is involved in two other cases. However, she could not dispute that two other co-accused have already been granted concession of regular bail by this Court and by a coordinate Bench of this Court; complainant/injured along with his father have turned hostile; investigation in the present case is complete; challan has been presented; charges have been framed and out of total 16

witnesses 9 been examined and the case is now fixed before the trial Court on 06.07.2023.

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

6. Keeping in view the custody of the petitioner, which is about 01 year 01 month, two other co-accused have already been granted concession of regular bail by this Court and by a coordinate Bench of this Court; complainant along with his father have turned hostile; investigation in the present case is complete; challan has been presented; charges have been framed and out of total 16 witnesses 9 been examined and the case is now fixed before the trial Court on 06.07.2023; no recovery has been effected from the petitioner and trial is likely to take a considerable time.

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.

04.05.2023

Parveen kumar

(NAMIT KUMAR)
JUDGE

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