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

CRM-M-2923-2023(O&M)
Date of Decision: 17.04.2023

RAVI ALIAS RABBU

....Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Deepak Aggarwal, Advocate with
Mr. Akhil Aggarwal, Advocate
for the petitioner.

Mr. Ram Kumar Singla, DAG, Haryana

HARSH BUNGER, J. (Oral)

CRM-14856-2023

This is an application under Section 482 Cr.P.C for placing on record the copy of order dated 03.02.2023 as Annexure P-5, copy of order dated 09.02.2023 as Annexure P-6 and copy of order dated 15.02.2023 as Annexure P-7 and for grant of exemption from filing the certified copies of Annexures P-5 to P-7.

For the reasons mentioned in the application, the same is allowed. Annexures P-5 to P-7 are taken on record, subject to all just exceptions.

CRM-M-2923-2023

The instant petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case

FIR No.395 dated 19.11.2021 registered under Sections 148, 149, 307, 201, 204 & 120-B of Indian Penal Code, 1860 and 25 of Arms Act, 1959 at Police Station Ganaur, District Sonapat (Annexure P-1).

Status report by way of affidavit of Vipin Kadian, H.P.S., Assistant Commissioner of Police, Rai, Sonipat, on behalf of respondent/State of Haryana is already taken on record.

Custody certificate dated 15.04.2023 of the petitioner filed by the learned State counsel is taken on record, subject to all just exceptions.

Succinctly, the FIR in question was lodged on the complaint of one Vijay son of Shiv Kumar, stating therein that on 18.11.2021, there was marriage of son and daughter of his uncle (Taya). At about 9/9:30 PM one black colour vehicle make accent came and halted in which 5-6 boys were present. He and his brothers Ajay, Mukesh s/o Ram Kishan and his nephew Shiva and other family members went towards the vehicle to enquire, thereafter they saw that from the said vehicle Ashwani son of Ashok, Abhishek son of Ashok, Rahul son of Shyam Lal, Rabbu son of Ramesh, Sunny and one another unknown boy got down and then suddenly Ashwani, Sunny, Rabbu and another unknown boy started firing upon them and one of the bullets hit him on the right side of his stomach below chest and one of the bullets hit his nephew Shiva on left arm. In the meanwhile, there was hue and cry and those 5-6 boys ran away from there in the vehicle alongwith weapons while firing. On this basis, the abovesaid FIR has been registered against the present petitioner and others.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. He submits that the petitioner is in judicial custody since 21.11.2021 and his total custody as on 15.04.2023 is 01 year, 04 months and 23 days. It is further submitted that

challan has been presented in this case and even charges have been framed. Learned counsel submitted that co-accused namely Sunny and Abhishek Alias Abhi who are similarly circumstanced have also been granted bail in the present case vide Annexures P-6 and P-7. It is stated that one witness i.e. complainant-Vijay has been examined who has been declared hostile. Learned counsel further states that the petitioner is not involved in any other case, the trial is likely to take long time and no useful purpose would be served by keeping him behind the bars any further. It is submitted that the petitioner had applied for grant of regular bail before the Additional Sessions Judge, Sonapat, which has wrongly been dismissed vide order dated 14.12.2022 (Annexure P-3). Learned counsel further submits that the petitioner herein is ready to abide by all the conditions as may be imposed by this Court or by the trial Court, accordingly prayer for grant of regular bail is made.

Learned State counsel opposes the plea of petitioner for grant of regular bail on the ground of seriousness of the offence. However, he does not dispute the fact that as per status report the challan in the present case has been presented against petitioner and charges have been framed. It is also not disputed that the present petitioner has been in custody since 23.11.2021. It is submitted that if the petitioner is released on bail, there is every likelihood that he may influence and threaten the witnesses, hence, this petition be dismissed.

I have heard learned counsel for the parties and perused the paper book, status report as well as the custody certificate of the petitioner handed over by learned State counsel, in Court today.

This case was registered on the complaint of Vijay, who has

been examined in this case but he has not supported the prosecution case. Petitioner is a young boy of around 23 years of age and is behind the bars for the last more than one year and four months. As per status report, there is no other case against the petitioner. The challan in the present case has been presented and the charges have been framed. There are total 34 prosecution witnesses; however only one witness has been examined till date and that too has turned hostile. No useful purpose would be served by keeping the petitioner behind bars. Moreover, co-accused Sumit @ Dilawar, Sunny @ Kala and Ashwani have already been granted regular bail.

So far as the apprehension expressed by learned counsel that the witnesses could be influenced by petitioner, suffice it to state that in the event of any such conduct, the prosecution can always approach the competent Court for cancellation of bail. Accordingly, it is observed that the State/prosecuting agency/state police shall be at liberty to observe the behaviour of the petitioner during bail period, and in case it feels that the petitioner is indulging in influencing any of the witnesses or tampering with the prosecution evidence in any manner or otherwise causing interference with the progress of trial, it shall be open for the State/prosecuting agency/state police to move the trial Court for cancellation of bail, which shall be decided by the trial Court on merits.

Keeping in view the aforementioned circumstances, the instant petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate concerned. However, the concerned Station House Officer shall be informed about the release of petitioner and the petitioner shall inform the concerned Station House Officer about his

address at which he intends to reside during the pendency of case and any change in the address shall also be communicated to the concerned Station House Officer, forthwith. The petitioner would also furnish his telephone number to the concerned Station House Officer. He shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial.

In addition, the petitioner (or any one on his behalf) shall prepare a FDR in the sum of Rs.30,000/- and deposit the same with the trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

Nothing expressed here-in-above shall be construed to be an observation on merits of the case and the facts and circumstances recorded above are only for consideration of the prayer for bail at this stage.

The petition is accordingly disposed of.

17.04.2023

Amandeep

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No