

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

CRM-M-4271-2023

Date of Decision: 27.04.2023

Bunty

...Petitioner

V/S

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Ms. Atul Ravish, Advocate
for the petitioner.

Mr. Bhupender Singh, DAG, Haryana.

DEEPAK MANCHANDA J. Oral

Instant petition has been filed under Section 439 Cr.P.C. seeking regular bail in the case bearing FIR No.0101 dated 17.03.2021 registered under Sections 115, 120-B, 473 of the Indian Penal Code, 1860 and Section 25 of Arms Act, 1959 at Police Station, Butana, District Karnal.

Brief facts of the case are that the present FIR has been registered on the basis of secret information received by the police party headed by ASI Parveen Kumar during patrolling duty near Grain Market, Nilokheri Gate that Krishan Kumar Dadupur son of Prem Singh Kashyap, resident of Dadupur Rodan, Sunny Kumar @ Mass son of Somparkash Kashyap resident of Ward No.15 Ladwa, in order to kill the family and relative of Naresh resident of Anjanthali, as per planning, have sent their two accomplices/friends, namely, Bunty son of Pawan Kumar resident of Satod, District Seekar, Rajasthan and Sandeep Kumar @ Deepak son of Seeta Ram Saxena, resident of New Krishna Bihar, Jawala Nagar, Rampur, U.P. in Nilokheri Area to conduct their recce. On finding the secret

information reliable, the police party held naka at T-point, two young boys were seen coming on a motorcycle from the Anjanthali side towards Railway Fly Over, Nilokheri. When they came closer, on a motorcycle bearing Registration No. HR-29AM-8911, then the police party gave the signal to stop. They tried to turn back the motorcycle but were nabbed and along with the motorcycle. The boy riding motorcycle disclosed his name as Bunty and the person who was pillion rider disclosed his name as Sandeep @ Deepak were apprehended. During search, one country made loaded pistol .32 bore from the pocket of pants of Bunty and four live cartridges were recovered and one more country made loaded pistol .12 bore with four live cartridges from the left pocket of pants of accused Sandeep were also recovered.

In compliance of order dated 28.03.2023, State has filed reply and the same is taken on record.

As per the said reply, charges were framed on 23.09.2021 but out of total 12 witnesses, only two prosecution witnesses have been examined by the trial Court till date.

Faced with this, learned counsel for the petitioner has produced the copy of the order dated 14.03.2023 passed by the trial Court, where it is specifically mentioned that no PW has been examined till today and the matter is listed for 18.05.2023.

Learned counsel for the petitioner contends that petitioner has been falsely implicated in the present case where the allegations as per the FIR against the petitioner are that he has conducted recce of family and relatives of Naresh at the behest of the accused Krishan and Sunny @ Mass.

He further submits that the alleged recovery is fake and planted on the

petitioner and the investigation has already been completed, the charges stands presented and out of total 12 prosecution witnesses, none of the witness has been examined till today and further submits that petitioner is involved in two other cases where he is on bail.

Learned State counsel on instructions from ASI Rajesh Kumar does not dispute this fact and admits the contention raised by learned counsel for the petitioner with regard to status of the case and in other two cases, he is on bail.

Since a misleading affidavit has been filed before this Court by the State, where in the status report (Annexure P-3), it is mentioned that out of 12 prosecution witnesses, 2 witnesses have been examined but as per order dated 14.03.2023 passed by trial Court, no prosecution witness has been examined till today and the said fact has also been duly admitted by the State.

Keeping in view of the above, a cost of Rs.20,000/- is imposed upon the State and the State is directed to deposit the above said cost with the Institute for Blind, Sector 26, Chandigarh within a period of two weeks from the receipt of copy of this order.

Having heard learned counsel for the parties and gone through the case file, it is significant to note that the petitioner is in custody since 18.03.2021 and has already undergone 1 year. Investigation of the case has been completed, challan stands presented and the charges have also been framed on 23.09.2021, however, no prosecution witness has been examined till today. Therefore, no useful purpose would be served by keeping the petitioner in further incarceration.

As such, sufficient mitigating circumstances are made out to

extend the concession of bail to the petitioner. Therefore, without making 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 concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

The petition is allowed.

27.04.2023
sapna

(DEEPAK MANCHANDA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>