

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : CRM-M-5420-2023

Date of Decision : March 24, 2023

Deepak

.... Petitioner

vs.

State of Haryana

.... Respondent

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

* * *

Present : Mr. Vikas P. Singh, Advocate
for the petitioner.

Mr. R. S. Nain, DAG, Haryana.

Mr. S. S. Duhan, Advocate
for the complainant.

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GURBIR SINGH, J. :

Prayer in this petition, filed under Section 439 Cr.P.C., is for grant of regular bail to the petitioner in case FIR No.362 dated 10.09.2022, under Sections 148, 149, 307, 341, 506, 34 IPC and Section 25 of the Arms Act, registered at Police Station City Narwana, District Jind.

Pursuant to order passed by this Court on the last date of hearing, Status Report by way of affidavit of Kuldeep Singh, IPS, Additional Superintendent of Police, Narwana, District Jind, has been filed in Court today, which is ordered to be taken on record.

The FIR in question was registered on the statement of Ram Mehar wherein he stated that he had taken Liquor Vends in Villages Koyal and Nepewala. They were two brothers. On 09.09.2022, he and his friend Sandeep were going to have meals in their vehicle i.e. Creta bearing

registration No.HR-86-8700. When they reached near liquor vend, opposite Narwana Bus Stand, one Dzire vehicle was stopped ahead of their vehicle and one Swift Car was also put behind their vehicle. He and Sandeep alighted from their vehicle, Ajay son of Rishipal, resident of Dhamtan Sahib and Balkar son of Deva resident of Dhamtan Sahib came out from Swift Dzire. They told him and Sandeep that they were men of Beda, resident of Karamgarh and they would not on that day leave them alive. Thereafter, Ajay took out weapon from his *Pajami* and straightway fired upon the complainant with intention to kill him. The bullet struck at his left arm. Thereafter, Ajay and Balkar ran away after sitting in the same vehicle, in which 2-3 other boys were also sitting. 4-5 persons sitting in the Swift Car also ran away with their vehicle.

Learned counsel for the petitioner has submitted that as per the prosecution version, only Ajay had fired upon the complainant. No one from the Swift Car had come out. Neither the petitioner was sitting in any of the cars nor he was driving the alleged car. It has also been argued that the petitioner was not named in the FIR. He was named in the disclosure statement of the co-accused Ajay. He himself surrendered before the Police on 22.09.2022. Charge-sheet has also been filed. Had there been any intention to kill, then more than one shot would have been fired. No role is attributed to the petitioner. Therefore, he be released on bail.

Learned State counsel as well as learned counsel appearing for the complainant, on the other hand, has opposed the prayer made by learned counsel for the petitioner. He has submitted that the accused Ajay and petitioner were nabbed on 22.09.2022. On 23.09.2022, they suffered their

separate disclosure statements confessing their guilt and also disclosed about the involvement of other co-accused. On 22.11.2022, accused Binder @ Bona was arrested in this case. He confessed that he and Ajay conspired to commit murder of Ram Mehar. During the course of investigation, CCTV footage of the cameras adjacent to place of occurrence along with necessary Certificate under Section 65-B of the Indian Evidence Act were taken in possession by the Police. The said CCTV footage shows that the petitioner was present on the place of occurrence along with other co-accused.

Learned State counsel has further apprised this Court that the case is now fixed for 03.04.2023 for consideration on charge. The arrest of four other co-accused namely Balkar, Bindru, Amit and Khushia is still pending. He has further argued if the petitioner is released on bail, then there is every possibility that he may terrorize the witnesses.

Heard.

The allegations against the petitioner and his co-accused are quite serious, as per the evidence collected in the case. The prosecution has come to the conclusion that accused Binder @ Bona along with his associates hatched criminal conspiracy to commit murder of complainant-Ram Mehar and his friend Sandeep. In pursuance of the said conspiracy, number of persons, in two separate vehicles, restrained the way of Creta Car in which the complainant and his friend Sandeep were travelling. The petitioner is alleged to be present in the rear car. Co-accused Ajay, who was in the front car, had fired straight at Ram Mehar. The bullet struck at his left

From the facts and circumstances of the case, it is clear that it is not a simple case of sudden fight. There was motive to terrorize the complainant, who had taken Liquor Vends. The case is at an initial stage. Although challan is presented against the petitioner but case is pending for consideration on charge. The presence of the petitioner at the time of occurrence is prima facie proved from CCTV footage. The four accused are yet to be arrested. If the petitioner is ordered to be released on bail, there are very bright chances that he may overawe or win over the witnesses.

Without discussing the merits of the case, I am of the view that the petitioner does not deserve the concession of regular bail, at this stage.

Dismissed.

However, nothing contained herein above shall be construed as an expression of opinion on the merits of the case.

March 24, 2023
monika

(GURBIR SINGH)
JUDGE

Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No.