

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(212)

CRM-M-6627-2023
Date of decision:- 13.02.2023

Sunil Kumar @ Sonu

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Amit Gupta, Advocate for the petitioner.

Mr. Saurabh Mohunta, DAG, Punjab.

SUVIR SEHGAL, J. (ORAL)

This is the second petition filed under Section 439 of the Code of Criminal Procedure, 1973 seeking grant of post-arrest bail in case FIR No.1 dated 04.01.2021, registered for offences under Sections 307, 332, 353 and 34 of the Indian Penal Code, 1860 (for short "IPC") and Sections 25 (1B) (a) and 27 (1) of Arms Act , 1959 at Police Station Bhondsi, District Gurugram, Haryana, Annexure P-1.

Case of the prosecution is that FIR, Annexure P-1, has been registered when on the basis of a advance information, a *Scorpio* vehicle with five occupants was intercepted, but the occupants of the vehicle started firing at the police party. In defence, the police party fired back and hit the vehicle's tyre. In the ensuing gun fire, two police officials got injured. Two occupants of the vehicle, namely, Sunil Kumar @ Sonu (present petitioner)

and Sandeep, were hit on their leg. They were apprehended and a recovery of two country made pistols was effected from them.

Counsel for the petitioner contends that although the petitioner has been named in the FIR, but there is no specific attribution qua him. It is his specific case that recovery of pistol was not effected from the person of the petitioner, but was found lying near him when he fell in an injured condition. Counsel submits that offence under Section 307, IPC is not made out against the petitioner. He submits that the complainant-police official has been examined and the petitioner, who is in custody, deserves to be enlarged on bail. He submits that the first petition, preferred by the petitioner, (CRM-M-31188-2021) was withdrawn, after arguments on 26.10.2021.

Per contra, learned State counsel, upon instructions has opposed the petition and has submitted that the petitioner and co-accused are notorious criminals, who were planning to commit a robbery. By referring to the Custody Certificate dated 11.02.2023, which has been filed by him, he submits that the petitioner is involved in another criminal case. He submits that no cartridge was recovered from the petitioner as he had used all the cartridges, which he was carrying, by firing upon the police party.

I have heard counsel for the parties.

Custody Certificate shows that besides the present criminal case, petitioner is involved in FIR No.108/2020, which has been registered against him under Section 279, 511, 323, 427, IPC at Police Station Shamli (U.P.). Probably the FIR has been registered against the petitioner as a

result of rash and negligent driving. The argument of counsel for the petitioner that the petitioner has a notorious past is unfounded.

Noticing that the complainant has been examined and the length of custody of the petitioner, which is more than twenty five months, this Court is of the view that the petitioner deserves to be released from confinement as the prosecution is yet to be examine sixteen more witnesses.

Without adverting to the merits or demerits of the arguments addressed, petition is allowed. Petitioner is ordered to be released on bail on furnishing adequate bail/surety bonds to the satisfaction of the Area Magistrate/Duty Magistrate concerned.

It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

13.02.2023
Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No