

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(213)

CRM-M-8773-2023

Date of Decision: 23.02.2023

Abhishek @ Abbu

--Petitioner

Versus

State of Haryana

--Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. Ashish Tewatia, Advocate for the petitioner.

Mr. Kirpal Singh, A.A.G., Haryana.

RAJESH BHARDWAJ.J (Oral)

The present petition has been filed under Section 439 Cr.P.C seeking the benefit of regular bail to the petitioner in case FIR No.164 dated 26.6.2021 under sections 307, 34, 506 I.P.C and section 25 of Arms Act, registered at Police Station, Chainsa, District Faridabad.

As per factual matrix, a complaint was lodged by Ravindra @ Bholu, wherein it was alleged that on 25.6.2021 Rahul @ Hurra (Mistri) called him by using the phone of Abhishek @ Abbu i.e. the present petitioner and asked for the payment of car repairing. At about 3.30/4.00 PM he went to the shop of Rahul @ Hurra at village Panhera. When he was talking to Akash after about 5/10 minutes four people came on the Splendor bike which was being driven by the maternal uncle of Abhishek @ Abbu. They stopped the bike near him and then Abhishek fired a shot from the gun which he was holding in his hand and the same hit on his left thigh. He fell on the ground and thereafter Rahul @ Hurra also gave him the country made pistol which he was carrying to Gaurav @ Gujjar and told him to kill the complainant. Then Gaurav @ Gujjar fired at him. After suffering the shot he

became unconscious and it was told to him that he was shifted to Govt. Hospital, Ballabgarh by his sister Sapna and wife Priya. The doctors referred him to Civil Hospital, Faridabad. A request was made to take legal action against the culprits.

On the basis of the complaint, present FIR was lodged and investigation commenced. The complainant/injured was medically examined and petitioner was arrested on 29.6.2021. He approached the court of learned Addl. Sessions Judge, Faridabad for grant of bail, however, after hearing the parties, the same was declined vide order dated 12.9.2022. Aggrieved by the same petitioner has approached this court for grant of bail.

Learned counsel for the petitioner vehemently contends that petitioner has been falsely implicated in this case. He submits that after registration of the FIR challan was presented and charges were framed. It is submitted that injured Ravindra @ Bholu himself is the author of the FIR. Counsel submits that the learned Trial Court has examined the complainant as PW-1 and he has not supported the case of prosecution. It is further submitted that besides the complainant, his sister Sapna has also been examined as PW-2 and she has also not supported the case of prosecution and thus was declared hostile. It is submitted that reading of the allegations made in the FIR shows that the petitioner is alleged to have fired a shot which hit the thigh of the complainant and the same would show that there was no intention of the petitioner to kill the complainant. He submits that both the material witnesses i.e. the complainant and his sister Sapna have not supported the case of prosecution and thus further incarceration of the petitioner is totally unwarranted in the eyes of law.

On the other hand, learned State counsel on instructions from ASI Satbir Singh has submitted that there are specific allegations against the petitioner regarding firing shot at the complainant. It is submitted that though the complainant and his sister have not supported the case of prosecution, however, complainant was medically examined and the same would reveal that the complainant has suffered a fire arm injury which was given by the petitioner. It is submitted that out of the total 21 prosecution witnesses prosecution has examined 10 as on date including the complainant and his sister. It is further submitted that petitioner has no criminal antecedents.

I have heard learned counsel for the parties at length and have gone through the records carefully.

Admittedly, petitioner is behind bars since 29.6.2021. The injured/complainant was examined as PW-1 and his sister Sapna as PW-2. As per perusal of their depositions it is evident that both these witnesses have not supported the case of prosecution. As per information provided by learned State counsel petitioner is not involved in any other case. Even otherwise out of total 21 prosecution witnesses, 10 have already been examined. As the material witnesses have already been examined, petitioner is not in a position to influence them.

This court would refrain itself from commenting on the merits of the case, as the allegations and counter allegations would be assessed only after evaluation of the complete evidence led by both the sides before the Trial Court. The trial would take sufficiently long time in its conclusion.

In the totality of facts and circumstances and without making any observation on merits, present petition is allowed. Petitioner be

enlarged on bail on his furnishing bail/surety bonds subject to satisfaction of Trial Court/Duty Magistrate, concerned. Nothing stated herein shall be treated as an expression on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

23.02.2023
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Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No