

CRM-M-16908-2023

-1-

(219) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-16908-2023

Date of Decision: 18.04.2023

RAHUL @ BHAIRAV

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Sandeep Yadav, Advocate
for the petitioner.

Mr. Kanwar Sanjiv Kumar, Asstt. A.G., Haryana.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.115 dated 29.06.2020 registered under Section 307, 379-B, 392, 398, 34 IPC and Section 25 of Arms Act, 1959 at Police Station Dujana, District Jhajjar.

2. The brief facts of the case are that the statement of one Dilbag son of Raghubir was recorded to the effect that he was running a Kiryana Shop and a tea stall. On 28.06.2020, while he was in front of his shop, three young boys of his village came on a motorcycle and asked him for money. On denying the same, Bhairo (petitioner) son of Jaiveer caught hold of him from the backside and Chain Singh son of Arjun along with Chhotu son of Satte took out his purse from the pocket. On raising a hue and cry, Bhairo fired at him (complainant) and he received an injury due to the said gunshot. Thereafter, three accused ran away from the spot.

3. The learned counsel for the petitioner contends that 04 out of the 16 prosecution witnesses have been examined so far. Dilbag (complainant)

CRM-M-16908-2023

-2-

son of Raghubir and one Anil son of Dilbag have been examined as PWs 1 and 2, respectively. None of them have supported the case of the prosecution and have turned hostile. The co-accused of the petitioner namely, Chain Singh and Tarun @ Chhotu have been granted the concession of regular bail by this Court vide orders dated 03.02.2023 and 09.09.2021 (Annexures P-3 and P-4). As the petitioner was in custody since 30.06.2020 and the material prosecution witnesses already stood examined, the further incarceration of the petitioner was not required, moreso, when in most of the 07 other cases registered him, the petitioner had been granted the concession of bail.

4. On the other hand, the learned State counsel contends that the petitioner is the main accused and in view of his criminal antecedents, he was not entitled to the grant of bail. He however fairly concedes that the petitioner is in custody since 30.06.2020, two of the other co-accused have been granted the concession of regular bail by this Court and the petitioner has been granted bail in 05 out of the 07 pending cases registered against him.

5. I have heard the learned counsel for the parties.

6. Admittedly, the two main prosecution witnesses have been examined and turned hostile. Whether the remaining evidence is sufficient to affix liability on the petitioner and his co-accused would be a matter of adjudication during trial. At this stage, once the co-accused of the petitioner have been granted the concession of bail, the further incarceration of the petitioner is not required, when he is already undergone custody of 02 years, 09 months and 16 days as an under-trial.

CRM-M-16908-2023

-3-

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Rahul @ Bhairav son of Jaivir is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other crime other than the cases mentioned in this order.

9. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.50,000/- 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.

10. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

18.04.2023

JITESH

Whether speaking/reasoned:- Yes/No
Whether reportable:- Yes/No