

IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH

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CRM-M-19384-2023 (O&M)

Date of Decision: 20.07.2023

JAIBIR @ MANNU

... Petitioner

Versus

STATE OF HARYANA

... Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Atul Lakhanpal, Senior Advocate with
Mr. RS Chahal, Advocate for the petitioner.

Mr. Vipul Sherwal, AAG, Haryana.

HARNARESH SINGH GILL, J.(Oral)

Prayer in this second petition is for grant of regular bail to the petitioner in case FIR No.747 dated 05.11.2020, under Sections 302, 216, 114, 120-B, 34 IPC and Sections 25, 30 of Arms Act, registered at Police Station Barwala, District Hisar, the first one having been dismissed on merits by this Court vide order dated 17.10.2022 passed in CRM-M-5049-2022.

Learned Senior counsel for the petitioner submits that post dismissal of the earlier bail petition, statements of complainant and three eye-witnesses, namely, Shyam Sunder, Ganga Singh, Satyawar and Sunil, respectively, (PW-4 to PW-7) have been recorded before the learned trial Court and they have not supported the prosecution version; that the petitioner has been in custody since 10.09.2021. He further submits that as far as other four cases registered and/or pending against the petitioner are concerned, he is on bail in three cases and in one he has been declared innocent.

Learned Senior counsel for the petitioner further submits that the petitioner is alleged to be the main accused in the present case; that there are total 12 accused, out of which 10 have already been granted the concession of bail; that the FIR was registered after a delay of about 16 hours; that no recovery was effected from the petitioner and that out of total 32 prosecution witnesses, only 11 have been examined, so far.

Per contra, while opposing the prayer for grant of regular bail to the petitioner, learned State counsel does not dispute the custody period of the petitioner and the factum of the complainant and two eye-witnesses turning hostile. He, however, submits that the petitioner had actively participated in the occurrence, inasmuch as, he gave a fatal blow on the person of Zile Singh (since deceased) and that recovery of mobile phone along with SIM card was effected from the petitioner. He further submits that the petitioner is a habitual offender, inasmuch as, there are other cases as well registered against him and that material witnesses are yet to be examined and thus, the petitioner be not granted the concession of bail.

I have heard the learned counsel for the parties.

The petitioner has been in custody since 10.09.2021. The complainant and the three eye-witnesses have not supported the prosecution version. In other cases, the petitioner is on bail and in one case he was found innocent. Co-accused have already been enlarged on bail. Material witnesses have already been examined. Trial of the case would take a long time to conclude. Therefore, no useful purpose would be served by keeping the petitioner behind the bars.

In view of the above and without commenting anything on the merits of the case, lest it should prejudice the case of either side, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate/Chief Judicial Magistrate concerned.

20.07.2023

Aman Jain

Whether speaking/reasoned

Whether reportable

(HARNARESH SINGH GILL)

JUDGE

:

:

Yes/No

Yes/No