

CRM-M-20426-2023

2023:PHHC:131765

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(220)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-20426-2023

Date of Decision: 10.10.2023

ANEESH ALIAS KALU

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Anshumaan Dalal, 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.468 dated 15.11.2022 registered under Sections 307, 506, 34 IPC, 1860 (Section 482 IPC and Sections 25, 29A of Arms Act added later on) at Police Station Kalanaur, District Rohtak, Haryana.

2. The instant FIR came to be registered at the instance of Shiv Kumar who stated that he had an elder brother namely, Rajesh who had two sons Amit and Parvesh both of whom were agriculturalists. About 08 days earlier, his nephew Amit had a quarrel with Aneesh @ Kalu (petitioner) son of Virender and Sourabh son of Ravinder over a trivial issue. Aneesh @ Kalu had threatened to kill his nephew Amit. However, the matter had been settled. On 14.11.2022 at about 11.30 PM, one motorcycle stopped in front of his house and he heard 2-3 boys abusing Amit. He (complainant) saw Aneesh @ Kalu, Sandeep and one other boy abusing while sitting on their motorcycle.

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On being confronted, Aneesh @ Kalu, Sandeep and the other accomplice started to quarrel with him (complainant). Upon hearing the noise, his sister-in-law Sushila and brother Rajesh came outside and tried to rescue him (complainant). Then Aneesh @ Kalu took out a pistol from the pocket of his pant and fired upon him with an intention to kill him. While attempting to rescue him, his sister-in-law Sushila suffered pellet injuries on her face. Upon hearing the noise of the firearm, many persons from the neighbourhood came to the spot. On seeing them, Aneesh @ Kalu threw away the pistol which he was carrying and ran away while threatening to kill them (complainant party). One boy namely, Amit however came to be apprehended at the spot. Then the police was called to the spot and Amit, the thrown pistol and a motorcycle were handed over to the police. He along with his sister-in-law Sushila were admitted in CHC Hospital, Kalanaur for treatment from where they were referred to PGIMS, Rohtak. Legal action was sought.

3. The learned counsel for the petitioner contends that there is a delay of 19 hours in the registration of the FIR which demolishes the prosecution case. As per the MLRs of Sushila and Shiv Kumar, they both had received simple injuries. As per the opinion taken regarding the nature of injuries, it was found that the injuries were simple and blunt in nature. Pursuant thereto, a report of the ballistic expert had been received as per which no gunshot residue could be found on the articles recovered. One DSP, Yashpal had also admitted that the injuries did not appear to be inflicted from a .315 bore pistol. Even otherwise, both the material witnesses namely, Shiv Kumar and Sushila stood examined and therefore, there was no possibility of the petitioner threatening the witnesses in case, he was granted the

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concession of bail. As he was in custody since 24.11.2022 but only 02 of the 22 prosecution witnesses had been examined so far, the trial of the present case was not likely to be concluded anytime soon and hence, the petitioner was entitled to the concession of bail.

4. A reply dated 22.09.2023 by way of an affidavit of Sandeep Kumar, HPS, Deputy Superintendent of Police, Meham, District Rohtak has been filed on behalf of the State by the learned counsel for the State. The same is already on record. He contends that the petitioner is the main accused having inflicted gunshot injuries on the person of Shiv Kumar and Sushila. Therefore, he was not entitled to the concession of bail. He, however, concedes that the petitioner was a first-time offender, in custody since 24.11.2022 and only 02 of the 22 prosecution witnesses already stands examined.

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

6. The veracity of the prosecution case against the petitioner and his co-accused shall be a matter of adjudication during the course of trial. Admittedly, the petitioner is a first-time offender, in custody since 24.11.2022 and only 02 of the 22 prosecution witnesses stand examined till date. Therefore, the trial of the present case is not likely to be concluded anytime soon. In such a situation, his further incarceration is not warranted.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Aneesh @ Kalu son of Virender is ordered to be released on bail on 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 present case.

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

10.10.2023

JITESH

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