

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

217-CRM-M-22089-2022

Date of Decision: 24.01.2023

Neeraj @ Baba

... Petitioner

VS.

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Jaivir Yadav, Sr.Advocate with
Mr. Tarun Yadav, Advocate for the petitioner

Mr. GS Dhillon, AAG Haryana

Sandeep Moudgil, J. (Oral)

The petitioner seeks regular bail in case FIR No.360 dated 03.09.2021 under Sections 302/34/120-B/201 IPC, Sections 25(1-B)A, 27(1) & 29-B of Arms Act, registered at Police Station Sector 5, Gurugram.

Learned senior counsel has referred to the part of FIR wherein the role attributed to the petitioner by the complainant is that the complainant along with his brother Annu went to visit Sheetla Mata Mandir and when his brother was standing on the road, he saw a boy with covered face. That boy shot at his brother Annu on the head and after committing the said offence, the unknown boy ran away from the spot. Later on the brother of the complainant died due to the said injury.

Learned counsel for the petitioner vehemently contended that the complainant was in fact, not present at the time of alleged occurrence and it seems that the investigating agency and the complainant have concocted the story of murder of deceased Annu by raising suspicion upon one Shubham Bhardwaj and only when the investigating agency realized that there is no

person by the name of Shubham Bhardwaj, supplementary statement of complainant was recorded and a new name was introduced that is Shivam s/o Vinod Kumar. Even otherwise, the role attributed is that the petitioner provided the cartridges/weapon to Deepak Lamba.

Custody certificate dated 23.01.2023 filed by learned State counsel is taken on record, according to which, the petitioner has already faced incarceration of 1 year 4 months 9 days. However, learned State counsel submits that the petitioner is a habitual offender and is already facing 4 other cases under Sections 2/3 of Gangsters Act including Section 302/307/393 IPC and in none of cases, he has been granted bail, so far, except acquittal in FIR No.358 dated 13.12.2017 which was under Sections 387/307/34/120-B IPC, registered at Police Station New Colony, Gurugram.

Learned State counsel has also drawn attention of this Court to an occurrence recorded in the custody certificate at Sr.No.8, which reads as under:-

Punishment awarding authority	Punishment awarded, with date	Whether judicially appraised or not
Superintendent of Prison	Order date: 04-07-2022, order No: 5829: Punishment of Security Ward Confinement for (years 0, months 0, days 30) with effective from Jul 04, 2022 (He was attacked upon accused Deepak s/o Rajender with a sharp edged weapon in the washroom. When Nitesh s/o Rajender came to rescue the injured. He was also inflicted injury with sharp edged weapon and also inflicted injury on his arm).	Yes

Be that as it may, in the instant case, the role attributed to the petitioner admittedly, is only with regard to supply of weapon and cartridge

and as very fairly stated by learned State counsel, the petitioner has not been attributed any gun-shot injury.

In view of the above discussion, and taking into consideration the fact that the trial is likely to take some time, and therefore, no fruitful purpose will be served by keeping the petitioner behind bars, the petitioner is directed to be released on regular bail on furnishing bail and surety bonds to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate concerned.

The present petition is, therefore, allowed.

24.01.2023
V.Vishal

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

(Sandeep Moudgil)
Judge

Yes/No
Yes/No