

**210 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-22133-2023

Decided on:-08.05.2023

Rajender @ Banti

....Petitioner..

VS.

State of Haryana

....Respondent.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Karan Kaushal, Advocate for the petitioner.

Mr. Gaurav Bansal, DAG, Haryana.

HARKESH MANUJA J.

1. By way of present petition filed under Section 439 Cr.P.C, prayer has been made for grant of regular bail pending trial in case FIR No.72 dated 17.05.2021, under Sections 148, 149, 341, 323, 364, 302, 120-B, 216 IPC and Section 25 of the Arms Act, 1959, registered at Police Station Rojka Meo, District Nuh.

2. Learned counsel for the petitioner submits that the petitioner was not named in the FIR, he was implicated only on the basis of disclosure statement made by co-accused Pardeep @ Patwari. He further submits that the petitioner is behind the bars for the last 01 year and 11 months and the investigation in the present case already stands concluded with the filing of challan, however, none has been examined out of total of 42 witnesses as cited by the prosecution, thus, trial is likely to take some time.

3. On the other hand learned State counsel vehemently opposes the prayer made on behalf of the petitioner while referring to the manner in

which the occurrence was shaped, wherein, the victim(deceased) was inflicted 21 injures on his person.

4. I have heard learned counsel for the parties and gone through the paper-book. I find substance in the submissions made on behalf of the petitioner.

5. In the present case, admittedly, petitioner was not named in the FIR and was implicated only on the basis of disclosure statement made by co-accused Pardeep @ Patwari. Even as per the disclosure, no injury has been attributed to the petitioner as he was left on the way near the car which got damaged during the course of occurrence, besides it, the investigation having been concluded with the filing of challan, followed by framing of charges in August 2022 and none of the prosecution witness having been examined so far out of total of 42 as cited by the prosecution and the petitioner having suffered long incarceration for a period of 1 year and 11 months by now, I do not find any justification to extend his incarceration any further. The relevant portion from the disclosure statement of Pardeep @ Patwari implicating the petitioner is as under:-

"As per the plan in a white alto I, Lalit, Rohit, Kala @ Vikky and my brother-in-law Bunty and on my brother Advani's bullet motorcycle my brother Advani and Ankit and on motor cycle No. HR 72-8902 Amit, Kuldeep and Schin departed towards Sohna and reached near Jakhopur liquor theka and in some time Firey Bhati and my brother in law Anil reached there in the black alto and told us that Asif is coming in a black Santro and has 2 people with him. We waited in our car and bikes on the side of the road in some time when Asif @ Saddu in his santro car reached there we followed him to plywood factory Aata road when Firey Bhati hit Asif's Santro car from his alto car and from the other side I parked my alto car from the front, Asif tried escaping in his Santro but lost balance due to the pits on the road hit a tree and somersaulted. We took out Asif's

*companion Rashid and Wasif and I hit an iron rod on the head of Rashid, my brother Advani landed kicks and punches and hit the iron rod on the head of Rashid, my brother Advani landed kicks and punches and hit the iron rod on hand, Kala hit from a wooden log on the eyes and then broke the car's window and abducted Asif in the white alto with intention to kill him. The tyre of Bhati's black alto car got burst due to hitting the Santro. **That we left my brother in law Bunty** and Ankit near the car and rest of us on white alto and bullet motor cycles reached bandh near Nangli house, there I called from my mobile No.9813984646 Joginder @ Lala S/o Ram Singh R/o Saap Nangli station Sohna told him the entire above mentioned incident and told him to come to Saap Nangli Bandh."*

6. Trial is likely to take time and the petitioner is not being involved in any other case, as such, in view of the above, without expressing any opinion on the merits of the case, the present petition is allowed and petitioner is ordered to be released on bail, subject to his furnishing bail bonds and surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

08.05.2023

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(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/ No