

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

CRM-M-23211-2023

Date of Decision:12.05.2023

Shamshaad

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM : HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present : Mr. Vikas Kumar Gupta, Advocate for the petitioner.

Mr. Gurvir Singh Dhillon, A.A.G. Haryana.

SANDEEP MOUDGIL, J. (Oral)

This petition under Section 439 Cr.P.C has been filed for grant of regular bail to the petitioner in FIR No.886 dated 17.11.2021 registered under Sections 302/54/34 IPC and Section 25 Arms Act at Police Station Quilla, Panipat.

Learned counsel for the petitioner contends that he was not named in the FIR initially. A perusal of version recorded in the FIR clearly demonstrates that no overt act has been attributed except that he was having a pistol which was used in the commissioning of offence and another pistol has been recovered from his possession. He has been nominated as an accused merely on the basis of disclosure statement of other accused persons stating that they have brought the weapons i.e. Pistol from the petitioner.

Learned State counsel has produced the custody certificate which shows that the petitioner has undergone 01 year 03 months and 24 days. He also argues that one pistol has been recovered from the petitioner, therefore, he is not entitled to be released on regular bail as he was the main perpetrator of the offence though was not present at the place of occurrence.

It is an admitted fact that the petitioner is not present at the place of

occurrence. Allegation qua him is only with regard to supply of pistol to other accused, which is not sufficient to connect the petitioner with the crime. As far as recovery of another weapon from his possession is concerned, there is no concrete evidence or any material before the Investigating Agency to connect the said weapon with the occurrence. Therefore, it would be unjust and unfair to connect the petitioner with the crime. The trial is going on and out of 24 prosecution witnesses only 2 witnesses have been examined.

Considering the totality of facts and circumstances of the case particularly the custody faced by the petitioner during the pendency of the trial which is likely to take sufficient time to conclude and out total 24 prosecution witnesses, only 2 witnesses has been examined so far, this petition is allowed and the petitioner is ordered to be released on bail subject to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

12.05.2023
rajeev

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No