

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-25668-2022

Date of Decision:-09.01.2023

Dinesh @ Gola.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. S.K. Panwar, Advocate for the Petitioner.

Mr. Neeraj Poswal, Assistant Advocate General, Haryana.

JASJIT SINGH BEDI, J. (ORAL)

The Prayer in this petition is for the grant of regular bail under Section 439 Cr.PC in case FIR No.443 dated 15.12.2021 under Sections 148, 149, 285, 323, 325, 506, 120-B IPC and Sections 3(2)V(a) of SC/ST Act, 1989 and Section 25 of Arms Act, 1959 registered at Police Station Chandhat, District Palwal, Haryana.

The brief facts of the case are that the present FIR came to be registered at the instance of Ashok who stated that on 18.07.2017 Rajesh Tanwar, Ami Lal, Lekh Raj, Krishan, Vijay and Sagar Bodh had caused injuries to him regarding which FIR No.288 of 2017 was registered and the Trial was pending. The aforementioned person had been threatening him to compromise the matter. He had filed a complaint with the CM Window against the aforementioned persons but the police officials had not taken any steps against the said accused. On 14.12.2021, Dinesh (petitioner) son of Devdutt @ Ganga along with some other persons uttered caste related words and opened fire upon him and pointed a country made pistol towards his PSO. Thereafter he was attacked with various weapons. He was also

threatened that if he did not compromise with Rajesh etc., he would be done to death.

The Counsel for the petitioner contends that the allegations against the petitioner and his co-accused are baseless. There is no firearm injury on the person of the complainant or any other person. He had absolutely no motive to commit the offence in question as he was not an accused in FIR No.288 of 2017. Since the petitioner was in custody since 14.02.2022 and none of the 23 prosecution witnesses had been examined so far, the petitioner was entitled to the concession of bail.

The Counsel for the State on the other hand contends that the petitioner is a habitual offender with a number of FIRs registered against him as was apparent from the impugned order. He does not deserve the concession of bail.

I have heard learned Counsel for the parties.

Admittedly the petitioner is in custody since 14.02.2022 and none of the 23 prosecution witnesses have been examined so far. No specific injury has been attributed to the petitioner. As regards the other cases against the petitioner, the Hon'ble Supreme Court in ***Maulana Mohd. Amir Rashadi Vs. State of U.P. (2012)3 SCC 382*** has held that merely on the basis of criminal antecedents of an accused his bail application cannot be rejected. It would be the duty of the court to find out the role of the accused in the case in which bail was sought. In the present case, as has already been noticed above, no specific injury has been attributed to him. Even otherwise, in three cases, the petitioner has been granted the concession of regular bail vide order dated 03.08.2022, 25.08.2022 and 15.10.2022, which are taken on record as Mark-A to Mark-C. Therefore, the further incarceration of the petitioner is not required moreso when the Trial in the present case was not likely to be concluded anytime soon.

Keeping in view the aforementioned facts but without commenting on the merits of the case, the present petition is allowed and the petitioner **Dinesh @ Gola** son of Dev Prakash @ Gunga is ordered to be released on bail subject to the satisfaction of learned CJM/Duty Magistrate, concerned.

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 cases mentioned in the impugned order.

The petitioner shall make no attempt to contact/threat/intimidate the witnesses to the occurrence either directly or through a third party and if any such attempt is made, the State is at liberty to seek cancellation of bail granted by this order.

In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.2,00,000/- 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.

Petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

January 09, 2023
Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>