

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

210

CRM-M-28519-2022
DATE OF DECISION:- 13.04.2023

Mahender Jogi

...Petitioner

vs.

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Ramender Chauhan, Advocate for the petitioner.

Mr. Sumit Jain, Addl. A. G., Haryana.

HARKESH MANUJA, J.

By way of present petition filed under Section 439 of the Code of Criminal Procedure, 1973, petitioner is seeking grant of regular bail pending trial in case FIR No.693 dated 22.12.2021 under Sections 307 read with Section 34 IPC, 1860 and Section 25, 54 and 59 of the Arms Act, registered at Police Station City Bhiwani, District Bhiwani.

The allegation against the petitioner in the present case are of having fired bullets in the street while standing on the roof of his house which are stated to have hit on the left leg of one Subham.

Learned counsel for the petitioner submits that the investigation in the present case already stands concluded with the filing of *challan* followed by framing of charges and out of the total 23 witnesses cited by the prosecution, only 5 have been examined so far. Learned counsel further submits that the petitioner is already behind the bars for the last more than 1 years 4 months and conclusion of the trial is likely to take some time, besides, last 4 opportunities, the complainant Rinku son of

Umed Singh is not appearing before the Court as a witness.

On the other hand, learned State counsel opposes the prayer made herein while submitting that relying upon the antecedents of the petitioner who is stated to be involved in 7 other cases out of which in one of the case he has been acquitted, however, in the remaining 6 cases, he is already on bail.

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.

In the present case, investigation in the present case already stands concluded with the filing of *challan* followed by framing of charges and out of the total 21 witnesses cited by the prosecution, only 5 have been examined so far and as a matter of fact, complainant Rinku son of Umed Singh is not appearing before the trial Court for past 4 hearings and petitioner is suffering incarceration for past 1 year 4 months now and trial of the case is likely to take some time, I do not see any reason to extend the incarceration of the petitioner any further, particularly when there is no complaint moved at the instance of complainant namely Rinku son of Umed Singh of having any kind of threat from the petitioner mentioning as a reason for his non-appearance. As the non-appearance of the complainant is causing delay in trial, petitioner deserves the concession of regular bail.

Without commenting anything on the merits, lest it may prejudice the trial, the present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the concerned learned trial Court/Duty Magistrate.

However, nothing expressed hereinabove shall be construed as
an expression on the merits of the case.

13.04.2023
anil

(HARKESH MANUJA)
JUDGE

whether speaking/reasoned: Yes/No
whether reportable: Yes/No