

2023:PHHC:133044

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

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CRM-M-34412-2023

Date of decision : 12.10.2023

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..... Petitioner

versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Ms. Alisha Soni, Advocate
for the petitioner.

Mr. Ashok Kumar Sehrawat, DAG, Haryana.

PANKAJ JAIN, J. (Oral)

1. Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.41 dated 30.09.2019, registered for the offences punishable under Sections 307, 506 120-B and 34 of IPC and Section 25 of Arms Act, 1959 at Police Station Gaddpuri, District Palwal.

2. As per the allegations levelled in the FIR, it has been alleged as under:-

“To, SHO Sahab Police Station Gadh Puri.
Sir, I requested that I Manjit S/o Budhram and I am resident of preethala caste Jaat and there is friendship between me and with Vishnu son of Mr Jitee Singh resident of Preethala, near about one month ago, Sagar S/o Prahlad my friend Vishnu with the police had raided at my shop regarding liquor which was a false complaint no liquor was received from me nor any liquor was recovered

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from Vishnu's shop today on 30/09/2019 at around 4:00 p.m. I was going from the street to madan's shops when I reach near Sumer Singh's house Sagar son of Prahlad and Narendra son of kirodi resident of Preethla came on a motorcycle who was driving by Narendra son of kirodi and they after seeing me, stop the motorcycle and starting firing with the intention to kill me with his illegal pistol in order to cause death two three times but he was closed saved but the lady who was coming from back side has grazed his neck, cow was also seen nearby the temple, she also sustained gun injury then they came again and said that today saved, next or they will kill you if they meet again. Legal action may kindly be taken against the accused.”

3. Petitioner was admitted to bail vide order dated 26.05.2021 passed by Additional Sessions Judge, Palwal observed that he was in custody since 21.12.2019 and the co-accused already stand admitted to bail. However, the petitioner absented from trial on 01.11.2021, but surrendered later on 20.12.2021 when penalty of Rs.1500/- was imposed upon him while readmitting him to bail. Again on 20.07.2022, the petitioner absented and the petitioner could be thereafter arrested on 13.03.2023 only.

4. Counsel for the petitioner submits that the bail application filed by the petitioner was dismissed by the Lower Court on the ground that the conduct of the petitioner has led to delay in trial. However, the fact remains that despite the fact that the charges were framed way back on 18.07.2021 and the petitioner continued to remain present before the trial Court till 20.07.2022 and has been in custody now after 13.03.2023

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for 07 months. No witness has been examined till date and thus de hors the fact that the petitioner is being accused of having misused the concession of bail the fact remains that the trial is being delayed by prosecution and thus the custody of the petitioner cannot be allowed to be prolonged as a punitive measure.

5. The aforesaid facts are not denied by counsel representing the State. However, he submits that the conduct of the petitioner would not merit grant of concession to him.

6. In view of the rival contentions raised by counsels representing the parties, this Court finds that in order to balance the equities, it will be in the interest of justice that the petitioner is ordered to be released on bail, subject to heavy surety and deposit of Rs.25,000/- before the trial Court as surety amount which would be refunded to him post trial.

7. Petition stands allowed.

8. Needless to say nothing recorded herein shall be construed to be an expression of an opinion on the merits of the case.

(PANKAJ JAIN)
JUDGE

12.10.2023
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Whether speaking/reasoned :	Yes
Whether Reportable :	No