

CRM-M-37536 of 2022

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

CRM-M-37536 of 2022

Date of decision: 10.01.2023

Nawab Ali

.....Petitioner

versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Sushil Jain, Advocate, for the petitioner.
Ms. Gaganpreet Kaur, AAG, Haryana.

NAMIT KUMAR, J. (ORAL)

In terms of order dated 28.09.2022, status report dated 02.01.2023 by way of an affidavit of Satish Kumar, Deputy Superintendent of Police, Murthal, District Sonipat, on behalf of the respondent-State has been filed, which is taken on record.

This petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case FIR No.116 dated 15.03.2022 under Sections 307, 120-B, 34 IPC and Section 25 of the Arms Act, registered at Police Station Murthal, District Sonipat.

Briefly, the facts of the case are that on 15.03.2022 an information was received in the Police Station Murthal that Sahil son of Shokeen resident of village Dhaturi has been fired upon. On this information SI along with his colleagues went to General Hospital, Sonapat and collected MLR and Ruqqa pertaining to Sahil where a fire arm injury was found on the right hip of Sahil. Parcel etc. handed over by the doctor were collected. When Sahil was declared fit to make the statement then his

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statement was recorded in which he disclosed that he is running a grocery shop. On 15.03.2022 at about 9.30 PM when he went outside his house for fetching water from the tap then a boy for the purpose of killing him fired twice at him from his pistol. One of the shot hit on his right hip and second went past from near of him. Complainant stated that he ran for shelter inside the house where his father, uncle Salim and other villagers came. The other boy was standing at a small distance from the boy firing shots. The other boy was keeping the Motorcycle in running condition. After the incident, the assailants sped on the Motorcycle. He provided the suspicious on Sheru son of Bhulan, Suresh son of Bhulan who is said to have fired upon him at the instance of Nawab Ali @ Bablu (petitioner). Further disclosed that dispute between the complainant side and assailants pertaining to a piece of land is going on and earlier these persons also caused injuries to the father of complainant. On 16.03.2022 spot was inspected. Two cartridges case, one fired bullet 32 bore were taken into police possession in a sealed condition. One bullet as handed over by Doctor of Nidan Park Hospital, Murthal Road, Sonapat was taken into police possession as per rules. On 22.03.2022, complainant Sahil with his father Shokeen again came into the police station and stated that Sehnaaj alias Moni with her husband and others in criminal conspiracy has committed the crime. Sehnaaj alias Moni wife of Suresh was arrested on 30.03.2022. Offence under Section 120 B IPC was added. Petitioner-Nawab Ali alias Bablu was arrested on 05.05.2022.

Learned counsel for the petitioner submits that petitioner has been falsely implicated in the present case. He has been nominated as an accused with the aid of Section 120-B IPC. Only allegation against the

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petitioner is that other co-accused fired shot on the asking of the petitioner and other persons. He further submits that petitioner along with her wife Rubina was earlier also implicated in a false case bearing FIR No.20 dated 17.01.2015 under Sections 323/506/34 IPC, registered at Police Station City Gohana, wherein he was acquitted vide judgment dated 01.11.2017 (Annexure P-2) passed by the Court of learned SDJM, Gohana. Learned counsel further submits that petitioner's wife Rubina is the daughter of Bhullan and Bhullan's sons Sheru and Suresh are the accused in the present FIR and since the petitioner is related to them, being son-in-law of Bhullan, he has been falsely implicated. He also referred to declaration dated 01.02.2022 (Annexure P-3) published in newspaper 'Dainik Jagran' (Hindi), wherein it has been stated that *“my father-in-law Bhulle Khan and his wife Chanderkalan and my brothers-in-law Suresh @ Sheru and Alisher and Gulab are making quarrel every day due to land dispute. I have no connection with the aforesaid dispute. These are not under my control and I break all the connection and relationship with them. Any person, who deals with them, will be responsible himself.”*. He further submits that the complainant-injured-Sahil has been examined before the trial Court and has not supported the case of the prosecution and has been declared as hostile vide order dated 13.12.2022. Another material witness, namely, Shokeen, father of Sahil-complainant-injured has also not supported the case of the prosecution and has been declared hostile vide order dated 13.12.2022. He also submits that three witnesses who have been examined till now have been turned hostile. There has been no attribution against the petitioner and no recovery has been effected from him and he is in custody since 05.05.2022 and is having three minor children.

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Per contra, learned State counsel opposed the prayer of the petitioner for grant of regular bail and stated that petitioner is involved in two more cases. However, he could not refute the abovesaid assertions made by the learned counsel for the petitioner.

Learned counsel for the petitioner submits that in the said two cases, petitioner is on bail. He further submits that the charges have been framed and case is still at the stage of prosecution evidence and the trial is likely to take considerable time to conclude. The next date of hearing before the trial Court is 07.02.2023. Therefore, no fruitful purpose would be served by detaining the petitioner behind bars. He may be granted the concession of regular bail.

Keeping in view the custody period of the petitioner; material witnesses have resiled from their statements and have not supported the case of the prosecution; petitioner has been nominated as an accused with the aid of Section 120-B IPC; earlier also petitioner was implicated in a false case in which he has been acquitted and declaration dated 01.02.2022 (Annexure P-3) and the fact that the trial is likely to take a considerable time to conclude, charges have already been framed, however, without commenting upon the merits of the case, the petitioner is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

The petition stands disposed off accordingly.

10.01.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No