

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M No. 36981 of 2023
Reserved on :- 29.11.2023
Pronounced on :02.12.2023

TARUN

... Petitioner

Versus

STATE OF HARYANA

... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. Kunal Dawar, Advocate,
for the petitioner.

Mr. Vishal Malik, DAG, Haryana.

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SANJIV BERRY, J. (ORAL)

The instant petition has been preferred by the petitioner under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in the following case :-

FIR No.	Dated	Sections	Police Station
156	13.11.2020	302, 506, 148, 149 IPC and 25 of Arms Act (450, 212, 379, 411, 468, 472, 120-B IPC added lateron)	Bhupani, Faridabad

2. Brief facts of the case are that Gian Chand-complainant states that on 13.11.2020, he along with his son were present in their office, at about 9:00 PM, when he went for a nature call, he heard gun shots and ran towards office where he saw four boys were shooting on his son Rocky. Out of them one persons was saying that he had taken the revenge of his brother and the said person was claiming himself as Binnu, while another person

proclaimed as Chutia Tajpurwala and threatened that if anyone deposed against them they will kill them and their family. The assailants fled away from the spot along with 5-6 persons, with the help of Gajraj, Dinesh and Azad shifted Rocky son of the complainant to the QRG Hospital, where his son was declared 'brought dead' and hence a FIR was registered.

3. It is *inter alia* contended by learned counsel for the petitioner that the petitioner is innocent and has been falsely implicated in this case. He submits that nine witnesses have been examined till date in the present case and out of them Gian Chand-complainant was examined as PW-7 (Annexure P-2), Jitender son of complainant as PW-8 (Annexure P-3) and Azad as PW9 (Annexure P-4) and all of them are eye witnesses to the occurrence had not identified the petitioner and turned hostile. The petitioner was implicated on the disclosure statement of co-accused Krishan Pal, which is not admissible in the eye of law. He submits that the petitioner is in custody since 30.11.2020 and conclusion of trial will take sufficient time. Hence, he prayed for grant of bail.

4. Per contra learned State Counsel by referring to the reply submits that considering the nature and gravity of offence, petitioner is not entitled to concession of bail, however he admits that out of 51 witnesses, 9 witnesses have been examined and the complainant-Gian Chand (PW-7), Jitender son of Gian Chand (PW8) and Azad (PW-9) eye witness to the occurrence had not supported the prosecution case.

5. Considering the rival contentions and perusing the record, it transpires that eye witness to the occurrence i.e complainant Gian Chand and

other witnesses have not supported the case of the prosecution and have turned hostile. The petitioner is in custody since 30.11.2020. The challan has already been presented against the petitioner and trial is going on and out of 51 witnesses cited by the prosecution only 9 witnesses have been examined till date. The material witnesses of the prosecution including the complainant have not supported the case against the present petitioner. The criminal liability, if any, could be ascertained after conclusion of trial which will take sufficient long time and no purpose would be served by keeping petitioner behind bars any longer.

6. Consequently, without commenting on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail, subject to furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court concerned, if not required in any other case; undertaking to regularly appear on each and every date; not to leave the country without prior permission of the Court; and not to tamper with evidence of prosecution in any manner.

7. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

(SANJIV BERRY)
JUDGE

02.12.2023

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i)	Whether speaking/reasoned?	Yes/No
ii)	Whether reportable?	Yes/No