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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-37542-2023
Date of decision: 08.11.2023

MANDEEP SINGH @ KALU

...Petitioner

VERSUS

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. R. S. Mamli, Advocate
for the petitioner.

Mr. Vishal Kashyap, DAG, Haryana.

Mr. Kapish Singla, Advocate for
Mr. Ashit Malik, Advocate
for the complainant.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No.413 dated 17.04.2022, under Sections 323, 307, 34 of the IPC and Sections 25 and 27 of the Arms Act, registered at Police Station Shahabad, District Kurukshetra, Haryana.

2. Learned counsel for the petitioner submitted that the petitioner is in custody from 18.04.2022, which is more than 1 year and 6 months. He further submitted that in the present case, the charges were framed on 31.08.2022, which is also more than 1 year and till date, only one prosecution witness has

been examined i.e. the complainant and he has been examined-in-chief only and thereafter an application was filed by the prosecution under Section 319 Cr.P.C. for the summoning of the additional accused but thereafter, the trial has not progressed. He further submitted that one of the other co-accused, namely, Devender Singh alias Sonu has already been extended the benefit of regular bail by this Court on 05.07.2023 vide Annexure P-2. He also submitted that the difference of the role of the petitioner and the aforesaid co-accused was that the allegation against the aforesaid co-accused, who had been granted regular bail as aforesaid was that he had used the double barrel gun of his uncle and he had fired in the air, whereas the allegation against the petitioner was that he had fired by a revolver which had hit the hand of the injured, which is on the non-vital part of the body. He further submitted that in fact the petitioner has not hit anybody and the firing in the air was done by a double barrel gun of the uncle of the aforesaid co-accused due to self-defence at that point of time and at the time of trial, it will be ascertained as to whether the petitioner and the aforesaid co-accused had fired in self-defence or not and therefore, the petitioner may be considered for the grant of regular bail.

3. On the other hand, Mr. Vishal Kashyap, DAG, Haryana submitted that although the petitioner is in custody for more than 1 year and 6 months but he is not entitled for the grant of regular bail particularly in view of the fact that the petitioner had used country-made pistol for the purpose of firing which had hit the hand of the injured and the petitioner is also involved in two more cases pertaining to the Arms Act as well and he is a habitual offender. He further submitted that the petitioner is not at parity with the aforesaid co-accused,

namely, Devender Singh alias Sonu since the allegation against the aforesaid co-accused was of using a double barrel licensed gun of his uncle, whereas the petitioner had used a country-made pistol and he is a habitual offender. He also submitted that there is a strong apprehension that in case the petitioner is released on bail that he may repeat the offence and he may even influence the witnesses and therefore, he may not be granted regular bail.

4. Mr. Kapish Singla, Advocate for Mr. Ashit Malik, Advocate has appeared on behalf of the complainant and has also opposed the grant of regular bail to the petitioner and submitted that it was the petitioner who had fired through a country-made pistol which hit the complainant on his hand and injured him and rather it is a case where the offence was made out twice. Earlier he injured the complainant and his brother by way of *datar* and after some time, again he came and fired from a country-made revolver. He also submitted that considering the aforesaid factual position and also the antecedents of the petitioner, the petitioner is not entitled for the grant of regular bail.

5. I have heard learned counsel for the parties.

6. The petitioner is stated to be in custody for more than 1 year and 6 months and only one prosecution witness, who is the complainant has been examined in part and thereafter, the prosecution had moved an application under Section 319 Cr.P.C. for summoning of the additional accused. On the ground of parity, this Court is of the view that the petitioner is not at parity with the aforesaid co-accused, namely, Devender Singh alias Sonu, who has been extended the benefit of regular bail by this Court as aforesaid because as far as the present petitioner is concerned, he had allegedly fired from a country-made

pistol, which hit the hand of the complainant. So far as the aforesaid co-accused is concerned, allegedly he had fired by taking a double barrel gun of his uncle, which was fired in the air and did not hit anybody. Apart from the above, the petitioner is not having clean antecedents and is stated to be a habitual offender and those other cases in which the petitioner is involved are pertaining to the Arms Act. Therefore, this Court is of the view that considering the gravity of the offence, the petitioner does not deserve the concession of regular bail.

- 7. Consequently, the present petition is dismissed.
- 8. However, anything observed hereinabove shall not be treated as an expression of opinion and shall not affect the merits of the case and is meant for the purpose of deciding the present petition only.

08.11.2023
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

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