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(225)
IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-39518-2023
Date of Decision: 21.09.2023

RAKESH

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Baljeet Nain, Advocate
for the petitioner.

Mr. Kanwar Sanjiv Kumar, Asstt. A.G., Haryana.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.09 dated 07.01.2023 registered under Sections 307, 387, IPC, 1860 and Section 25 of Arms Act, 1959, (Sections 201, 120-B IPC added later on) at Police Station City Tohana, District Fatehabad.

2. The brief facts of the case are that the statement of Vikram @ Vicky son of Sh. Shyam was recorded to the effect that he was posted as a Manager at B-13 Food Court in Tohana. On 07.01.2023 at about 06.50 PM, while he was sitting on the counter, one young boy came near the counter, gave him a slip and suddenly turned back and started going outside. When he (complainant) followed that boy outside, the same boy suddenly fired three shots towards the inside which hit the glass of the main gate and the gate was broken. When he saw outside on the road, he found two boys were sitting on the bike and the same boy was accompanying the two boys on the bike and

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had gone towards the railway station. The bullet could have struck him (complainant) if he had not turned around. On the slip, the name of boxer gang Tohana was mentioned along with a demand of Rs.50,00,000/-. At the time of the incident, the owner of the Food Court Deepak and Jagdeep were also present. The CCTV footage was examined and the person who came inside was identified as Rohit @ Tidda. Legal action was sought against him along with his companions for demanding a ransom of Rs.50,00,000/- and threatening to kill by firing shots. During the course of the investigation, it transpired that while Rohit @ Tidda had come inside and fired his companion standing outside were Sumit @ Sukha and Karan Singh (granted bail vide order dated 24.08.2023 passed in CRM-M-40871-2023). Based on the disclosure statement of the above-named accused Bhagat (granted bail vide order dated 04.09.2023 passed in CRM-M-31479-2023), Saurabh (granted bail vide order dated 04.09.2023 passed in CRM-M-38990-2023), Montu and Sunil @ Bachi were nominated as conspirators. Thereafter, Kapoor @ Golu, Krishan Boxer and Lakhwinder alias Lakhu came to be nominated as conspirators as well. The name of the petitioner figured in the disclosure statement of his co-accused Kapoor @ Golu as per which the petitioner had supplied the ammunition to the co-accused for committing the offence in question.

3. The learned counsel for the petitioner contends that the petitioner is not named in the present and nor has any injury been attributed to him. The name of the petitioner figured in the disclosure statement of his co-accused. As the co-accused of the petitioner namely, Karan Singh, Sunil Kumar, Dheeraj, Krishan @ Boxer, Lakhwinder @ Lakhu, Bhagat (granted

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bail vide order dated 04.09.2023 passed in CRM-M-31479-2023) and Saurabh (granted bail vide order dated 04.09.2023 passed in CRM-M-38990-2023) had been granted the concession of bail vide orders dated 10.03.2023, 01.05.2023, 26.05.2023, 20.07.2023, 24.08.2023, the petitioner was entitled to the similar relief as he was in custody since 17.04.2023 and none of the 36 prosecution witnesses had been examined so far.

4. The learned counsel for the State on the other hand contends that serious allegations of supplying the ammunition for the commission of the offence have been levelled against the petitioner. His co-accused were not only demanding ransom but had also made an attempt on the life of the complainant. Therefore, the serious nature of the allegations levelled against the petitioner, and his co-accused did not entitle him to the grant of bail. He, however, concedes that some of the co-accused of the petitioner have been granted the concession of bail as also the fact that the petitioner is in custody since 20.01.2023 and none of the 36 prosecution witnesses have been examined so far.

5. I have heard the learned counsel for the parties.

6. The veracity of the prosecution case against the petitioner and his co-accused shall be a matter of adjudication during the course of trial. Admittedly, the petitioner is in custody since 17.04.2023 and none of the 36 prosecution witnesses have been so far. Some of his co-accused have already been granted the concession of bail. In one of the two other cases registered against him, vide FIR No.09 dated 20.01.2023 under Section 25 of Arms Act, Police Station Sadar Tohana and FIR No.21 dated 16.01.2023 under Sections 25, 54, 59 Arms Act Police Station City Tohana, he has been granted

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the concession of bail. Therefore, his further incarceration in the present case is also not required.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Rakesh son of Om Parkash is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other crime other than the cases mentioned in this order.

9. If the petitioner or his family members/associates make any attempt to contact/threaten/intimidate the witnesses in the present case, the State would be at liberty to move an application for cancellation of bail granted vide this order.

10. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.50,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

11. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

21.09.2023

JITESH

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