

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

CRM-M-42087-2022

Date of decision : 17.01.2023

Virender

.....Petitioner

versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Shamsheer Singh Tomar, Advocate
for the petitioner.

Mr. Kirpal Singh Thakur, AAG, Haryana.

RAJESH BHARDWAJ, J. (Oral)

Prayer in the present petition is for grant of regular bail to the petitioner in case FIR No.172 dated 01.08.2019, under Sections 148, 149 and 307 of IPC and Section 25 of Arms Act (Sections 54 and 59 of Arms Act, 1959 added later on), registered at Police Station Julana, District Jind, Haryana.

Adumbrated facts of the case are that Shishpal @ Pali lodged the complaint with the police that he is doing agriculture work and is partner in liquor vends in Julana Circle. On 31.07.2019 at about 8:00/9:00 PM, he received a phone call from Vijay @ Jadeja that they were set at his country made and English liquor vend and if he had the courage, he could come. On this, complainant along with his companions reached the liquor vend then the accused started firing on them. Kuldeep fired bullet on his back and the bullet fired by Vijay passed by his head. On their raising noise, all the accused fled away from the spot leaving their vehicles. Request was made to take legal action against the culprits. On the basis of the complaint, formal FIR was lodged and the investigation commenced.

During investigation, co-accused made a disclosure statement regarding the complicity of the petitioner. The petitioner was arrested on 10.11.2021. Petitioner approached the Court of learned Sessions Judge, Jind praying for grant of bail. However, after hearing counsel for both the sides, learned Sessions Judge declined the same vide her order dated 26.05.2022. Aggrieved by the same, petitioner is before this Court praying for grant of regular bail.

It has been contended by counsel for the petitioner that the petitioner has been falsely and frivolously implicated in this case. He has submitted that from the bare perusal of the allegations in the FIR, it is evident that the petitioner is not even named in the FIR. He submits that the petitioner was already convicted for the offence under Section 302 IPC and he was on parole. He has further submitted that only in order to cancel his bail, petitioner was implicated in this case on the basis of disclosure statement of the co-accused which is not even admissible evidence. He further submits that there is no recovery made from the petitioner and thus, false implication of the petitioner is writ large. He has submitted that in the facts and circumstances of the case, the petitioner deserves to be granted bail.

Learned State counsel, on the other hand, has opposed the submissions made by counsel for the petitioner. He has submitted that the petitioner is a hard core prisoner and is already undergoing the life imprisonment. He has further submitted that petitioner was released on parole and during that period, he has committed the present offence. He submits that the petitioner has joined investigation and demarcated the place of occurrence as well. He, on instructions from ASI Krishan, submits that out of 20 prosecution witnesses, 17 witnesses already stands examined

and the next date before the trial Court is 01.03.2023.

I have heard counsel for the parties and perused the record.

It is evident that the petitioner is behind bars since 10.11.2021. The present occurrence has taken place while he was on parole. Perusal of the FIR shows that the petitioner was not named in the FIR. However, his name surfaced on the basis of disclosure statement of the co-accused. As submitted by learned State counsel, out of 20 prosecution witnesses, 17 witnesses have already been examined. Meaning thereby, the material witnesses have already been examined and thus, the probability of the petitioner influencing the prosecution witnesses does not survive any more.

The veracity of the allegations would be assessed only after the conclusion of the trial and on the appreciation of evidence led by both the parties before the trial Court. The trial of the case will take sufficiently long time. This Court would refrain itself from commenting anything on the merits of the case. However, confining itself to the prayer made for bail, this Court finds that counsel for the petitioner succeeds in making out a case for grant of regular bail. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

17.01.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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