

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-43687-2023

Decided on:-15.11.2023

Ajay Rana

....Petitioner..

vs.

State of Haryana

....Respondent.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Sandeep Singh Jattan, Advocate and
Mr. Vinay Arya, Advocate,
for the petitioner.

Mr. Shivendra Swaroop, DAG, Haryana,
for the respondent-State.

HARKESH MANUJA J. (Oral)

1. By way of present second petition filed under Section 439 Cr.P.C., prayer has been made for grant of regular bail to the petitioner in case FIR No.110 dated 07.08.2014, under Sections 148, 149, 323, 307, 302, 212, 120-B IPC and Section 25 of the Arms Act, 1959, registered at Police Station Barara, District Ambala.

2. The petitioner was implicated in the aforementioned FIR, besides few others and the allegations levelled were that the accused fired 15/20 gun shots, resulting into injuries on the persons of Mushtaq, Mohit and complainant-Ashok Kumar, wherein, Mushtaq lost his life, though, the complainant and Mohit survived.

3. Learned counsel for the petitioner submits that though the petitioner was declared as a proclaimed offender vide order dated

11.09.2015, however, he was later brought before the Court on production warrants on 05.10.2020, followed by completion of investigation and filing of challan on 29.10.2020. He also submits that the charges have already been framed against the petitioner on 03.01.2022, however, not even a single witness has been examined by the prosecution so far, whereas, the petitioner is in custody for the last almost 3 years and 1 month, thus, he prays for grant of concession of regular bail to the petitioner.

4. In compliance of previous order dated 02.11.2023, whereby, a request was made to the Superintendent of Police, Ambala to furnish his explanation as regards the delay in the progress of trial, status report by way an affidavit dated 14/15.11.2023 of Mr. Jashandeep Singh Randhawa (IPS), Superintendent of Police, Ambala has been filed in Court today, wherein, it has been disclosed that the complainant has gone abroad and despite having made all sincere efforts, he is not appearing before the Trial Court as a prosecution witness.

Learned State counsel while referring to the contents of aforementioned affidavit as well as on instructions from ASI Shishpal, Police Station Barara, submits that the petitioner is habitual offender being involved in four other criminal cases, though acquitted in two and for the remaining two, the trial is in progress, thus, prays for dismissal of the present petition.

5. I have heard learned counsel for the parties and gone through the paper book.

6. In the present case, perusal of FIR shows that the entire incident can be bifurcated into two parts; the first part allegedly took place before

noon on 07.08.2014, whereas, the later part took place in the evening on the same day. Although, the presence of petitioner was specifically pointed out as regards the incident which took place before noon, however, he was never named regarding the incident which took place in the evening. Moreover, the petitioner has already suffered incarceration for more than 3 years & 1 month and despite the charges having been framed on 03.01.2022, none of the prosecution witnesses have been examined so far.

7. On a specific query being put to the learned State counsel, he informs that so far, no application has been received by the prosecuting agency as regards any kind of apprehension of threat to the complainant.

8. In view of the facts and circumstances narrated above, I do not find any reason to extend the incarceration of the petitioner, who is already behind the bars for the last more than 3 years and 1 month, particularly, when the complainant is not even appearing before the Trial Court.

9. In view of the above, without expressing any opinion on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail, subject to his furnishing bail bonds and surety bonds to the satisfaction of the concerned Trial Court/Duty Magistrate.

15.11.2023
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(HARKESH MANUJA)
JUDGE

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