

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-46841-2022

Date of Decision:-30.05.2023

Ombir @ Gilaheri.

.....Petitioner.

Vs.

State of Haryana.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Anshuman Dalal, Advocate for the Petitioner.

Mr. Kanwar Sanjiv Kumar, Assistant Advocate General,
Haryana.

JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.0311 dated 03.06.2018 under Sections 148, 149, 307 IPC and Section 25 of the Arms Act registered at Police Station Sampla, District Rohtak.

2. The present FIR came to be registered at the instance of Jasbir Singh who stated that he ran a brick kiln which had been set up on lease land. On 3.6.2018 he and his brother Naveen were present at the brick kiln. Sumit @ Dainy and one accomplice came on a motor cycle and started abusing them (complainant party). Thereafter, the two accused left but came back later after 10 minutes along with 8/10 boys on motor cycles and an Accent Car. On reaching they raised a *lalkara*. Thereafter one boy who was being referred to as Sombir fired 3/ 4 shots towards them (complainant party) but no injury was caused. Amongst the boys, Sumit @ Dainy, Ankit and Aashu, he (complainant) knew prior to the occurrence. The names of

the other boys were not known to him. Legal action was sought against the accused.

3. The Counsel for the petitioner contends that the petitioner has been nominated as an accused on the basis of the disclosure statement of his co-accused. No injury has been caused by the petitioner. In fact, no gunshot injury has been caused on the complainant party though the said firing has been attributed to co-accused Sombir. The petitioner had been initially granted the concession of bail on 01.02.2019 after which he had absconded. However, now he was in custody since 24.05.2022. The complainant Jasbir Singh stood examined and has turned hostile. Two other co-accused had been granted the concession of bail including Sombir the main accused. Therefore, he was entitled to the grant of bail as well.

4. The Counsel for the State on the other hand contends that the petitioner was a part of an unlawful assembly and therefore did not deserve the concession of bail. Even otherwise, after being granted the concession of bail he had absconded and, therefore, his conduct also did not entitle him to the grant of bail. He however, concedes that all the other co-accused have been granted the concession of bail including Sombir and the complainant has turned hostile.

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

6. Admittedly, the co-accused of the petitioner including Sombir have been granted the concession of bail. The petitioner is in custody since 24.5.2022. Only 01 prosecution witness out of 16 cited prosecution witnesses has been examined who has also not supported the case of the prosecution. In this situation, the further incarceration of the petitioner is not required.

7. Thus without commenting on the merits of the case, the present

petition is allowed and the petitioner-**Ombir @ Gilaheri** son of Sh. Suresh is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

9. 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 case mentioned hereinabove.

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 the trial without sufficient cause.

11. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

May 30, 2023
Vinay

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