

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

CRM-M-49911-2022

Date of decision : 14.12.2023

SUMIT RATHI

....Petitioner

Versus

STATE OF HARYANA

....Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Rohit Mittal, Advocate for the petitioner.

Mr. Gaurav Bansal, DAG, Haryana.

Mr. Himanshu Munjal, Advocate for
Mr. Prashant S. Chauhan, Advocate for the complainant.

PANKAJ JAIN, J. (ORAL)

This petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case F.I.R. No.44 dated 31.01.2022 registered for the offences punishable under Sections 148, 149, 341, 307, 120-B, 216 of the Indian Penal Code, and Sections 25-54-59 of Arms Act, at Police Station Model Town, District Rewari.

2. As per the allegations levelled in the FIR it was alleged as under :

“xx It is requested that today on dated 31.01.2022, I along with my friend Deepak @ Bhura son of Karamvir resident of Sector 4 Rewari were on blue colour Triber Car No. HR36AG5044 and it was being driven by Ishan son of Mohit Sharma resident of Employees Colony, Garhi Bolini. It will be around 3 Pm when we reached just ahead of IOCL Society, Dhaliawas Chowk. One motorcycle Splendor Plus No. HR36A4535 whereon Dhiren was sitting and I do not know the name of the person who was sitting in the middle on the motorcycle. They were armed with weapons. They

brought their bike ahead of our car and in the meantime, from the back side, two white colour cars came at a very high speed. First of all Sumit Rathi son of Rajender resident of Chandpur alighted from the car and started firing and three four bullets hit at the car. Sumit fired at me which hit near Y left eye and it has caused minor injury and the bullet passed from nearby. Then Sumit Rathi has done firing at Deepak @ Bhura who was sitting along side the driver seat and fired at his left thigh, left side stomach and one fire hit at his left shoulder. Sumit Rathi was accompanied by Hansu @ Hans Raj Gujrjar, Umesh # DU, Tilu Gurjan, varun Poswal and Sanjay Rathi in the car. Tilu Gurjar, Hansu Gurjar and DU Gurjar were also armed with weapons. They have also done firing and some bullets hit at the car and some bullets passed through without hitting. Number of empty cartridges were lying on the spot. Sumit Rathi, Hansu Gurjar, DU Gurjar, Dhiren and two others Tilu Gurjar, Varun Postal, Sanjay Rathi have first stopped us on the way with their motorcycle and then done firing with intention to kill me and my friend Deepak Bhura. They had left the motorcycle on the place of occurrence and ran away on the car. While going away, they have given threat that they will kill us if we will lodge complaint in the police. Kindly legal action may kindly be taken against them. I am admitted in Pushpanjali Hospital for treatment. I have presented my application. Reason behind the grudge is preexisting dispute.xxx”

3. Counsel for the petitioner submits that not only the investigation stands concluded but the trial has proceeded considerably. The material witnesses stand examined and the complainant has not supported the case of the prosecution. He further submits that even as per the ballistic report the alleged weapon recovered from the petitioner has not matched the bullets.

4. State Counsel has produced custody certificate of the petitioner, which is taken on record. As per the same, the petitioner is

behind bars for more than 1 year, 9 months and 19 days. However, the bail plea is opposed by State Counsel claiming that the petitioner has criminal antecedents and is involved in 4 more cases apart from the two cases wherein he earned acquittal.

5. Be that as it may in view of the fact that the complainant does not support the case of the prosecution and even the scientific evidence does not incriminate the present petitioner *prima facie*, without commenting on the merits of the case and keeping in view the incarceration already suffered by the petitioner, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

6. Needless to say that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

December 14, 2023
Dpr

(Pankaj Jain)
Judge

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