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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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Date of Decision: August 28, 2023

Amit Kataria @ Kalu

.....Petitioner(s)

Vs.

State of Haryana

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. R.S. Rai, Sr. Advocate with
Mr. Manish Soni, Advocate for the petitioner(s).

Mr. Manish Bansal, Sr. DAG, Haryana

Mr. Pardeep Sehrawat, Advocate for
Mr. Vivek Goyal, Advocate for the complainant.

ANOOP CHITKARA J. (ORAL)

Present second petition for regular bail has been filed by the petitioner in case FIR No.18 dated 06.02.2020, under Section 307/34 IPC and section 25 of the Arms act (Section 302/120-B IPC added later on), registered at Police Station Sadar Rewari, Haryana.

2. Counsel for the petitioner submits that he was present at home at the time of alleged incident and learned Sessions Court rejected his bail without considering the fact that he was not present at the spot at the time of incident. He further submits that complainant in this Case turned hostile and two eye witnesses also did not support the case of the prosecution.

3. State counsel opposes the bail petition on the ground that the appreciation of evidence by this Court would adversely impact the outcome of the trial. Since the trial is going on and petitioner is a hard core criminal which is one

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of the reasons for rejection of his bail. He further submits that as per settled law, turning of witness as hostile would not be the ground for grant of bail.

4. Confronted with the aforesaid opposition, Counsel for the petitioner seeks permission to withdraw the petition with liberty to file afresh before the trial Court with clarification that the previous rejection would not come in the way while considering the fresh application for bail.

5. Given above, the present petition is disposed of as withdrawn with liberty as prayed for. All pending applications, if any, stand disposed of. It is clarified that in case fresh application for bail is filed, the trial Court shall not be influenced by previous rejection order while considering the fresh bail application and decide the same in accordance with law on its own merit and shall opined on the following points particularly in addition to the other points:-

- i) impact of criminal history of petitioner.
- ii) impact of witnesses turned hostile

(ANOOP CHITKARA)
JUDGE

August 28, 2023
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Whether speaking/reasoned:	Yes/No
Whether reportable:	No