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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M No. 50678 of 2022
Date of Decision: 22.08.2023

Rahul @ Aadu

... Petitioner

Versus

State of Punjab

... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. Vaibhav Narang, Advocate
for the petitioner.

Mr. Anmol Singh Sandhu, AAG, Punjab.

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SANJIV BERRY, J. (ORAL)

By way of present petition filed under Section 439 Cr.P.C the petitioner is praying for grant of regular bail in FIR (Annexure P-1) detailed as under:-

FIR No.	Dated	Sections	Police Station
18	31.01.2021	307, 506, 427, 148, 149 IPC and 25(6), 27 Arms Act 1959	Cantonment, District Police Commissionerate, Amritsar

2. Brief facts of the case are that the FIR in question was lodged at the instance of Ajay Kumar @ Raju wherein it was alleged that he has enmity with Sahil @ Kalu and cases have been registered against each other.

It is alleged that Sahil had formed a gang namely '*kalu*' gang with some other persons and had created an environment of threat and fear in the area. It is alleged that on 30.1.2021 Sahil, Saurav Bhatti, Karanpreet, Amit Kumar @ Ghula and Rahul along with one more unknown person, were standing outside the house of the complainant and were carrying pistols and were raising *lalkaras* challenging the complainant and others to come out and that they will not be spared. They were threatening the complainant to compromise the case registered by them and that failing which the consequences will not be good. The complainant however, proclaimed that he will not compromise as they had injured his son. Upon which Sahil and his companions got infuriated and started firing indiscriminately at the house of the complainant and of his brother. The complainant and others managed to save their lives by lying down. It is alleged that bullets were fired on the outer wall and on the gate, grill and fiber of the house of the complainant's brother. It is alleged that previously also Sahil and his friends had attacked several times and FIR had been registered against them and that now they were pressurizing them to compromise the matter.

3. It is, *inter alia*, contended by learned counsel for the petitioner that the petitioner is innocent and has been falsely implicated in this case. He further submits that although several persons are alleged to have fired indiscriminately, but none has been injured which would clearly suggest that it is a case of false implication. Learned counsel submits that the petitioner in any case deserves the concession of bail on the grounds of parity inasmuch as identically situated co-accused Karanpreet Singh @ KP and

Sahil @ Kalu have already been granted bail by this Court vide order dated 17.02.2022 (Annexures P-4). He also pointed out that even the other co-accused namely Saurav Bhatti and Nikhil Gill @ Nannu have already been granted concession of bail vide orders dated 20.05.2021 (Annexure P-2) and 02.07.2021 (Annexure P-3) by the Court of learned Additional Sessions Judge, Amritsar. He further submits that although the challan has been presented in Court but none of the 11 witnesses cited by the prosecution have been examined.

4. Learned State counsel has contested the bail application by vehemently arguing that present case cannot be said to have been foisted falsely inasmuch as several empty shells of bullets were recovered from the place of occurrence. Learned State counsel has further informed that petitioner stands involved in 6 other criminal cases. Learned State counsel submits that keeping in view the antecedents of the petitioner and the gravity of the offence, he is not entitled to concession of bail.

5. The arguments advanced by learned counsel for the petitioner as well as the learned State counsel have been heard. The learned State counsel has also placed on record the custody certificate dated 21.08.2023 intimating the petitioner to be in custody for a period of 2 years 1 months and 8 days.

6. After considering the rival contentions and perusing the record, it transpires that although there is allegation that the petitioner along with co-accused had fired indiscriminatory, however, none was injured in the said occurrence. No specific overt act has been attributed to the petitioner.

Challan has already been presented in the Court and as such the petitioner is no more required for further investigation. As stated above, none of the witness cited by the prosecution has yet been examined despite the fact that the petitioner is behind bars for a substantial period i.e. 2 years 1 months and 8 days to be precise and conclusion of trial is likely to take sufficient time as the trial is yet to commence. Identically situated co-accused have already been granted bail which would be sufficient ground for parity as well for release of the petitioner on bail.

7. Consequently, in the light of the above, without commenting on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on regular bail subject to furnishing bail bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned; undertaking to regularly appear on each and every date; not to leave the country without prior permission of the Court; and not to tamper with evidence of prosecution in any manner.

8. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

(SANJIV BERRY)
JUDGE

22.08.2023

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |