

CRM-M-51118 of 2022 (O&M)

2023:PHHC:056396

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

CRM-M-51118 of 2022 (O&M)

Date of decision: 21.04.2023

Rajiv Kumar @ Ravi Mann

.....Petitioner

versus

The State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. S.S. Gill, Advocate, for the petitioner.
Mr. Jashanpreet Singh, DAG, Punjab.
Mr. Gurcharan Dass, Advocate, for the complainant.

NAMIT KUMAR, J. (ORAL)

CRM-16166 of 2023

This application has been filed by the applicant-petitioner for placing on record copy of order dated 06.04.2023 passed by the trial Court as Annexure A-4.

For the reasons mentioned in the application, same is allowed.

Copy of order dated 06.04.2023 is taken on record as Annexure A-4.

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Status report by way of affidavit of Maninder Bedi, Assistant Commissioner of Police (North), Ludhiana, as well as custody certificate have been filed on behalf of respondent-State, which are taken on record.

This petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case FIR No.68 dated 14.05.2020 under Sections 307, 302, 34 IPC and Section 25 of the Arms Act, 1959 (Sections

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188, 120-B IPC read with Section 3 4 IPC added later on), registered at Police Station Jodhewal, Ludhiana, District Ludhiana.

Learned counsel for the petitioner has submitted that the FIR was registered at the instance of Manish Manocha with the allegations that on 13.05.2020, he was present at his home and his brother Girish was repairing a tandoor in the verandah, when somebody screamed that is it Manish's and Girish' house who deals in mobile phones and his brother Girish answered that yes they are dealing in the same and in the meantime, the persons standing outside, started firing bullets. When his brother tried to ran away, in the meantime, a person, with his face covered with handkerchief, fired bullets through small gate, which hit his brother Girish and he fell down and when the complainant tried to pick him up, his mother came from inside the house and screamed and thereafter, both the persons ran away on the motorcycle. Later on, he saw that his father also sustained injury and he was lying on the floor and he took his father and brother to the hospital, where his brother Girish died and his father Joginder Pal survived. He further submits that during trial, PW1 complainant Manish Manocha; PW2 Joginder Pal Manocha; PW3 Vipan Kumar; PW4 Sushma Rani and PW5 Neha did not support the prosecution version. The petitioner is in custody since 11.04.2022. He also submits that material witnesses have already been examined in the trial proceedings. Conclusion of trial is likely to take a considerable time. He places reliance upon order dated 15.12.2022 passed by a Co-ordinate Bench of this Court in CRM-M-49650 of 2022; order of this Court dated 06.01.2023 passed in CRM-M-26045 of 2022 and order dated 10.01.2023 passed by the Court of learned Additional Sessions Judge, Ludhiana whereby co-accused Veerkaran Singh @ Karan; Rajinder

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Manocha and Manoj Kumar alias Monu have been granted regular bail. Therefore, no fruitful purpose would be served by detaining the petitioner behind bars. He may be granted the concession of regular bail.

On the other hand, learned State counsel assisted by learned counsel for the complainant has opposed the prayer for grant of bail to the petitioner by submitting that the pistol used in the crime was provided by the petitioner. He further submits that petitioner is involved in two more cases bearing FIR No.22 dated 15.12.2019 under Sections 452, 323, 427, 379, 148, 149 IPC, registered at Police Station Tibba and FIR No.30/2019 under Section 61 of the Excise Act, registered at Police Station Jamalpur. However, he does not dispute the fact that trial is likely to take considerable time to conclude as well as material witnesses have already been examined and have turned hostile and that the co-accused have been granted bail.

Learned counsel for the petitioner has relied upon the judgment of Hon'ble Supreme Court in ***Maulana Mohd. Amir Rashadi Vs. State of U.P. and another, 2012 (2) SCC 382*** to contend that the facts and circumstances of the present case are to be seen while deciding a bail application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in other cases. The relevant portion of the said judgment is reproduced hereinbelow:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

I have heard learned counsel for the parties and perused the

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record.

Keeping in view the custody period of the petitioner, which is 01 year and 06 days; material witnesses have resiled from their statements and have not supported the case of the prosecution; co-accused have been granted bail and the fact that the trial is likely to take a considerable time to conclude, however, without commenting upon the merits of the case, the petitioner is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

The petition stands disposed of accordingly.

21.04.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No