

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

CRM-M-51273-2022 (O&M)

Date of decision: 20.02.2023

Shubham

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Chetan Kapoor, Advocate
for the petitioner.

Ms. Rajni Gupta, Addl. A. G., Haryana.

Mr. Vikram Singh, Advocate
for the complainant.

ARVIND SINGH SANGWAN, J. (Oral)

This is the second petition that has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 346 dated 18.11.2020, registered under Sections 148, 149, 323, 324, 307, 506 of the IPC and Sections 25, 27 of the Arms Act, 1959 at Police Station Nissing, District Karnal.

The first petition, bearing CRM-M-23022-2021, was dismissed as withdrawn on 13.05.2022.

Learned counsel for the petitioner submits that the new ground for filing the present petition is that the petitioner is in long judicial custody i.e. 02 years, 02 months and 28 days; petitioner is not involved in any other case and conclusion of trial is likely to take a long time as out of total 22 prosecution witnesses, only 07 witnesses have been examined so far.

Learned counsel for the petitioner relies upon order dated

08.07.2022 passed by this Court in CRM-15954-2021, vide which, co-accused Vikram has already been granted the concession of regular bail by this Court. The operative part of the order reads as under:

“Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case and he has been in custody since 19.11.2020 and challan in the present case has already been presented and there are 22 prosecution witnesses and out of them 4 witnesses have been examined and 18 witnesses are yet to be examined and thus, the trial is likely to take time. It is further submitted that no injury has been attributed to the present petitioner as per the FIR and all the injuries in the present case are simple in nature. It is further submitted that the petitioner in fact was not even present at the spot at the time of alleged occurrence, nor there was any reason for the petitioner to have caused any injuries to the complainant party. The petitioner is not stated to be involved in any other case.

Learned State counsel as well as learned counsel for the complainant have opposed the present petition for regular bail and have submitted that co-accused Prem Chand and Shubham had fired from their weapons, i.e. the revolver and the country made gun respectively, and the present petitioner had helped the said two persons by reloading the said firearms and on account of the said act of the accused persons, three persons had been injured, including a 10 year old boy Bhupender. It is further submitted that Bhupender has suffered two gun shot injuries on his right leg and Anil has also suffered one injury inflicted with a kassi and complainant Sunil has also suffered three injuries. It is also submitted that it has been observed in the order passed by the Additional Sessions Judge, Karnal that as per the photographs

obtained from the CCTV footage, the present petitioner was also present at the spot. It is stated that the two main accused Prem Chand and Shubham had also filed regular bail petitions and they have withdrawn the said petitions. It is also stated that at any rate, the accused persons should meet the medical expenses of the injured minor child Bhupender.”

For the sake of brevity, the facts are not reproduced again.

Learned counsel for the petitioner submits that 07 prosecution witnesses including complainant have been examined, therefore, there is no possibility for the petitioner to tamper with the prosecution evidence.

It is further submitted that without any prejudice to his right of defence, the petitioner is ready to pay a compensation of Rs. 25,000/- to the victim towards medical expenses.

Learned State counsel, assisted by learned counsel for the complainant, could not dispute the fact that out of total 22 prosecution witnesses, only 07 witnesses have been examined so far. As per custody certificate, filed today in Court, the petitioner is in judicial custody for the last 02 years, 02 months and 28 days and he is not involved in any other case.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the fact that the petitioner is in long judicial custody; he is not involved in any other case; co-accused of the petitioner has already been granted the concession of regular bail as noticed above and also in view of the fact that conclusion of trial is likely to take some time, the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaq

Magistrate, concerned.

However, this will be subject to payment of Rs. 25,000/- to victim/complainant, without any prejudice to the right of defence of the petitioner.

20.02.2023

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No