

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

209

CRM-M-51879 of 2022

Date of Decision:07.07.2023

Shiva Bhatti

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Ms. Himani Anand, Legal Aid Counsel and
Mr. Amandeep Singh, Advocate,
for the petitioner.

Mr. Sarabjit Singh Cheema, DAG, Punjab

JASGURPREET SINGH PURI, J. (Oral)

1. The present is a third petition filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No.153 dated 08.12.2019, under Sections 307, 34 IPC and 25 of the Arms Act, registered at Police Station Division No. 4, District Ludhiana.

2. It is submitted by Ms. Himani Anand, Legal Aid Counsel as well as Mr. Amandeep Singh, learned counsel appearing on behalf of the petitioner that the petitioner is in custody for about three years and six months and 4 prosecution witnesses out of 18 including the complainant and the father of the complainant have already been examined so far. They submitted that the trial of the case may take long time and therefore the petitioner may be considered for the grant of

regular bail.

3. On the other hand, Mr. Sarabjit Singh Cheema, learned DAG, Punjab has vehemently opposed the grant of regular bail to the petitioner on the ground that it is a case where the petitioner had come to the shop of the complainant and fired from his country made pistol on the complainant. He submitted that the petitioner is a habitual offender and he is involved as many as 18 other cases of similar nature comprising of Sections 307, 399 IPC and 25 of the Arms Act of similar nature. He submitted that now four prosecution witnesses out of 18 have already been examined and the trial is progressing and there is a strong apprehension that in case the petitioner is released on bail, then he may repeat the offence and may abscond from justice and therefore the petitioner is not entitled for the grant of regular bail.

4. I have heard learned counsel for the parties.

5. Although the petitioner has already faced incarceration for about 3 years and 6 months but as per learned counsel for the parties, four prosecution witnesses out of 18 have already been examined. The argument raised by learned State counsel by expressing strong apprehension considering the antecedents of the petitioner cannot be ignored and does carry weight. It has also been brought to the notice of this Court that the petitioner has been acquitted in 8 of the aforesaid 18 cases. However, this Court is of the view that mere fact that the petitioner has been acquitted in 8 cases out of the aforesaid 18 cases also cannot confer a right upon the petitioner to grant bail. Learned counsel has also relied upon a judgment of the Hon'ble Supreme Court in **Prabhakar Tewari versus State of UP and another** 2020 (1) RCR (Crl.) 831 to contend that number of cases registered

against the accused/petitioner cannot become a ground for denial of bail. However, the aforesaid judgment is distinguishable from the facts of the present case considering the facts and circumstances of the present case. In the present case, the petitioner was involved in 18 other cases and the learned State counsel has expressed that in case the petitioner is released on bail, then he may repeat the offence and may abscond from justice considering the gravity and the nature of the present offence involved in the present case.

6. In view of the aforesaid facts and circumstances, this Court does not deem it fit and proper to grant bail to the petitioner, Consequently, finding no merit in the present petition, the same is dismissed.

7. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of the present petition.

(JASGURPREET SINGH PURI)
JUDGE

July 07, 2023
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Whether speaking	:	Yes/No
Whether reportable	:	Yes/No