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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-51531-2022
Date of decision: 24.01.2023

SHIVAM

...Petitioner

VERSUS

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Akshay Jindal, Advocate
for the petitioner.

Mr. Anant Kataria, DAG, Haryana.

Mr. Munish Mittal, Advocate
for the complainant.

JAISHREE THAKUR, J. (Oral)

This is the third petition filed under Section 439 Cr.P.C. for grant of regular bail in case FIR No. 134 dated 07.04.2020, registered under Sections 148, 149, 188, 323, 324, 326, 307, 506 of IPC and 25 of Arms Act, 1959 (Section 120-B of IPC added later on) at Police Station Indri, District Karnal.

Learned counsel for the petitioner would contend that the petitioner herein has falsely been implicated in the said case and no injury has been attributed to him. Learned counsel for the petitioner would rely upon the statement of the complainant recorded under Section 161 Cr.P.C, which would reflect that petitioner-Shivam had a 'gandasi' in his hand and attacked upon the complainant, but the 'gandasi' did not injure the complainant in any

manner, as the complainant stepped back. It is also submitted that co-accused Aman has already been allowed the benefit of regular bail vide order dated 16.05.2022. It is argued that the statement of the complainant has been recorded before the trial Court but on an application filed under Section 319 Cr.P.C having been allowed, the entire proceedings are to start afresh. It is submitted that the petitioner has been in custody since 21.04.2020, which would tantamount to almost 34 months with the trial starting afresh. It is submitted that since the trial is going to take some time to conclude and his custody, in the present case, where no injury being attributed to him, would be unwarranted.

Learned counsel for the complainant opposes the grant of regular bail by contending that the petitioner has been nominated as an accused with allegations under several sections and one of them being under Section 307 IPC.

Learned State counsel opposes the grant of regular bail on the same ground, however, he is unable to dispute the fact that the trial is to start afresh and that the co-accused Aman has already been allowed regular bail.

I have heard learned counsel for the parties and in view of the facts that co-accused Aman has already been allowed regular bail, who is similarly situated, the trial is to start afresh since an application under Section 319 Cr.P.C stands allowed and that the investigation in the matter being complete, the petitioner is not in a position to influence the investigation, deem it appropriate to allow regular bail to the petitioner. Moreover, co-accused Aman has been allowed bail by noticing that the main accused would be Manish who had been attributed fatal injury. However, it is made clear that in case the petitioner herein tried to influence the complainant in

any manner whatsoever the complainant would be at liberty to have this order, recalled.

Without commenting on the merits of the case, the instant petition is allowed and the petitioner is directed to be released on regular bail subject to his furnishing the personal as well as surety bonds in the sum of Rs.5,00,000/- each to the satisfaction of concerned trial Court/Duty Magistrate, subject to the conditions as observed in the foregoing paragraph.

However, anything observed or said by this Court herein before is only for the purpose of deciding the instant petition and the same shall have no effect on the merits of the case.

24.01.2023

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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned Yes/No

Whether reportable Yes/No