

CRM-M-50003-2023

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-50003-2023
Reserved on: 20.11.2023
Pronounced on: 24.11.2023

Isha ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Afjal Hussain, Advocate for the petitioner.

Ms. Geeta Sharma, DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
88	13.02.2021	City Palwal	307, 34 IPC and 25 of Arms Act

1. The petitioner, who is a young boy aged 24 years, incarcerated from 23.11.2021 in the FIR captioned above for attempt to murder, has come up before this Court under Section 439 CrPC seeking bail.
2. Facts of the case are being extracted from the reply dated 01.11.2023 filed by the Additional Superintendent of Police, District Palwal, which reads as under:-

"1. That the present case bearing FIR No. 88 dated 13.2.2021 under sections 307/34 IPC & 25/54/59 of Arms Act, P.S City, Palwal was registered upon complaint of the injured Aamir@Kallu son of Aamin, resident of village Ghaghot, P.S Chandhut against Isha (present petitioner) and one unknown boy. A true translated English version of his complaint is produced below for kind perusal of this Hon'bel Court:-

"It is requested that I, Aamir@Kallu son of Sh. Aamin am a permanent resident of village Ghaghot, P.S Chandhut, District Palwal. I help my father in his fishery business. Today i.e 13.2.2021 at about 7:30, I, my cousin Aarif son of Fajru, r/o Ghaghot and my friend Rahul son of Tejpal, r/o Alawalpur reached at JIYA ZYM for exercising, which is in sector 2, Palwal on my APACHE motorcycle bearing no. HR 52E 1500. We happened to reach at the gate of the gym after parking our motorcycle in front of the gym, in the meanwhile two young boys came there on a motorcycle,

one of them was Isha son of Farukh, resident of Sanjay Colony, Palwal and the name of second boy is not known to me, however, I can identify him once he appears before me. That boy caught my hand and Isha son of Farukh, after fishing out a country made pistol from his tuck, with an intention to kill me, straight fired upon me which hit at my left leg below knee and he also fired second time which hit at shutter of the Gym. In the meantime I noticed number of their motorcycle as HR 30R 8878. Then I raised alarm as "MAR DIYA-2". Consequently, Isha and his accomplice had fled away on their motorcycle from the spot. My friends Aarif, Rahul and Man Singh, owner of gym, after arranging a vehicle, had shifted me to Govt. Hospital, Palwal, where I am being treated. Son of Farukh namely Isha had old enmity with my family members. Then a request to take action against the accused persons was made.

2. That after registration of the FIR, the initial investigation was carried out by SI Ramesh Chand. He inspected the place of occurrence and prepared its rough sketch. During inspection, two bullets were recovered from there and the same were taken into police possession vide a memo as evidence of crime. The place of occurrence was photographed and video graphed. Photos and a pen drive containing episode of the place of occurrence were also taken into possession as evidence of the crime."

3. Petitioner's case is that the material witness did not support the prosecution case and turned hostile and none of the witnesses identified him and he is in custody for 02 years. However on this, State has submitted that some material witnesses are yet to be examined and out of 29 witnesses, 18 have already been examined and the trial is at the verge of completion. State's further stand is that merely because PW1, PW2, PW6 & PW7 did not support prosecution case, would not mean that the petitioner can be absolved of the offence for the reason that recovery of the pistol was effected from him which was connected with the commission of offence.

4. In the FIR, it is explicitly mentioned that it was the petitioner who has fired two shots at the complainant and one of the said shot hit on his leg and other shot just missed him. Perusal of para 12 of the status report dated 01.11.2023, reveals that petitioner has 13 FIRs registered against him and all such FIRs relate to physical assault or snatching. Petitioner's counsel states that he is on bail in all such cases. Answer of the Court to such contention of the petitioner is that if the petitioner was not on bail in such cases, he would not have committed offence and it was the reason that he misused the concession of bail granted in such FIRs and he did not mend his ways and continued in indulging in criminal behaviour, which resulted in registration of present FIR. The contrary conduct in aiming at the victim and firing two shots and the recovery of pistol,

CRM-M-50003-2023

is at instance coupled with massive criminal history and more particularly the fact that the trial is at the fag end, it is for this Court to interfere at this stage.

The petition is dismissed. All pending applications, if any, stand closed. However, considering the petitioner's right to speedy trial coupled with the pre-trial incarceration, this court requests the concerned trial court to make all endeavours to conclude the trial within three months, of which the prosecution evidence be completed preferably within two months and the remaining time to provide an opportunity to the accused to lead defence evidence, if so desired, and to conclude its hearing. To meet the deadline, an endeavour be made to speed up the process for service and to pass the necessary directions in this regard. It is clarified that if expediting this trial disturbs the docket of the concerned court, then a balance be struck, and if, on this account, any delay happens, then an extension can be sought by mentioning such reasons. It is clarified that this order speeding up the trial is subject to the condition that neither the petitioner shall seek any adjournment nor try to use any tactics to delay the trial. If they do so, this order of expediting the trial shall stand automatically recalled by resorting to Section 362, read with Section 482 Code of Criminal Procedure, 1973, without any further reference to this court. If any of the accused is on bail and fails to attend the trial without any sufficient cause, then they be dealt with strictly but in accordance with the law. It is clarified that if the trial is not concluded by the date mentioned above, and if the delay is not attributable to the petitioner, then the petitioner may file an application for bail before the trial court, which shall decide it expeditiously and consider the bail on the grounds of pre-trial custody, and all the previous orders of dismissal passed by the trial court or High Court shall not come in the way.

(ANOOP CHITKARA)
JUDGE

24.11.2023
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Whether speaking/reasoned: Yes
Whether reportable: No.