

**[279] IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M No.53779 of 2023

Date of Decision: 21.11.2023

Binder Alias Bona

.... Petitioner

versus

State of Haryana

.... Respondent

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. Aminder Singh, Advocate
for the petitioner.

Mr. Karan Sharma, DAG, Haryana.

GURBIR SINGH, J (ORAL)

1. The present second petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.362 dated 10.09.2022 for offence under Sections 148, 149, 120B, 307, 341, 506 IPC and Section 25 of the Arms Act, registered at Police Station City Narwana District Jind (Annexure P/1).

2. Earlier bail petition filed by the petitioner was dismissed as withdrawn vide order of this Court dated 23.03.2023.

3. The FIR in question was registered on the statement of Ram Mehar wherein he stated that he had taken Liquor Vends in Villages Koyal and Nepewala. They were two brothers. On 09.09.2022, he and his friend Sandeep were going to have meals in their vehicle i.e. Creta bearing registration No.HR-86-8700. When they reached near liquor vend, opposite Narwana Bus Stand, one Dzire vehicle was stopped ahead of their vehicle and one Swift Car was also put behind their vehicle. He and Sandeep alighted from their vehicle, Ajay son of Rishipal, resident of Dhamtan Sahib and Balkar son of Deva resident of Dhamtan Sahib came out from Swift Dzire. They told him and Sandeep that they were men of Beda, resident of

Karamgarh and they would not on that day leave them alive. Thereafter, Ajay took out weapon from his Pajami and straightway fired upon the complainant with intention to kill him. The bullet struck at his left arm. Thereafter, Ajay and Balkar ran away after sitting in the same vehicle, in which 2-3 other boys were also sitting. 4-5 persons sitting in the Swift Car also ran away with their vehicle

4. Learned counsel further submits that the complainant/injured, namely Ram Mehar is already examined as PW-3. He has not supported the version of the prosecution and was declared hostile. He was cross-examined but to no effect. Similarly only eye-witness, namely, Sandeep, who has been examined as PW-4, has also not supported the prosecution version.

5. Learned counsel further submits that the petitioner is in custody since 22.11.2022. The co-accused is already released on bail.

6. On the other hand, learned State counsel, on instructions from ASI Shyam Lal, though has fairly admitted injured/complainant and eye-witness have not supported the prosecution version, however, he submits that there are 10 other cases pending against the present petitioner. Thus, he is opposing the bail to the petitioner.

7. Heard.

8. Keeping in view the fact that the injured/complainant and the eye-witness have not supported the prosecution version and co-accused, namely, Deepak has already been granted bail by this Court vide order dated 12.10.2023 in *CRM-M-44811-2023* and the only formal witness are yet to be examined, it is debatable that the case of the prosecution will improve with the examination of the remaining witnesses and no purpose would be served by keeping the petitioner behind bars. The pendency of other cases is no

ground to decline bail to the petitioner keeping in view the peculiar facts and circumstances of this case.

9. Accordingly, without commenting upon the merits of the case, the present petition is allowed and the petitioner is directed to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court/Duty Magistrate, concerned.

10. The petitioner shall also abide by the following conditions:-
- (i). *The petitioner shall surrender his passport and shall not leave the country without the prior permission of the Trial Court. In case, petitioner is not having passport then affidavit to that effect be filed in the trial Court.*
 - (ii). *The petitioner shall give his mobile number to the Trial Court and get the same registered, on which SMS shall be received from the CIS and shall not change his mobile number during pendency of the case.*
 - (iii). *The petitioner shall not change his residence without prior intimation to the police and the trial Court.*
 - (iv). *The petitioner shall appear before the Trial Court on each and every date of hearing.*

11. The Trial Court is at liberty to impose any other condition that it may deem appropriate. It is further clarified that in case of default of any of the conditions, then the concerned Court is competent to cancel the bail granted to the petitioner.

12. Nothing stated herein above be construed as a final expression of opinion on the merits of the case and the Trial Court would proceed independently of the observations above, which have only been made for the purpose of adjudication of the present petition for grant of regular bail.

21.11.2023

Anjal

(GURBIR SINGH)
JUDGE

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No