

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-54098-2023

Date of decision : 03.11.2023

Mukesh Karwasra

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHLPresent: Mr.Dheeraj Narula, Advocate
for the petitioner.

Mr.Naveen Singh Panwar, DAG, Haryana.

VIKAS BAHL, J.(ORAL)

1. This is the second petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR no.88 dated 18.02.2022 registered under Sections 302, 307, 120-B and 34 IPC and Section 25 of the Arms Act, 1959 at Police Station Rania, District Sirsa.

2. Learned counsel for the petitioner has submitted that the petitioner has been in custody since 28.02.2022 and the investigation is complete and the challan has already been presented and there are 33 witnesses and none of whom have been examined and thus, the trial is likely to take time and the petitioner is not involved in any other case. It is further submitted that the petitioner had earlier filed bail application which was dismissed as withdrawn at that stage on 20.12.2022 but even thereafter, no witness has been examined and the trial has not made any progress. It is stated that the petitioner has not been named in the FIR, although two persons i.e., Satbir @ Satta and Munish have been specifically named and

as per the case of the prosecution, the petitioner was the third person who is stated to be unknown person in the FIR and even as per the FIR, the said unknown person had not gone into the room where the deceased Pankaj had gone and it was only Satbir @ Satta and Munish, who were armed with pistols, who had gone to the said room and had fired shots at Pankaj and the complainant, respectively. It is further stated that the petitioner, even as per the case of the prosecution, was not armed with any weapon and the only allegation against the petitioner is that he had raised lalkara and that too when the other colleagues of the deceased had gone to catch Satbir @ Satta and Munish.

3. Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that the petitioner is the unknown person mentioned in the FIR as per the investigation as well as, as per the disclosure statement of co-accused Munish and has further submitted that the motor cycle used in the offence has been recovered from the petitioner and the complainant is yet to be examined in the present case.

4. Learned counsel for the petitioner, in rebuttal, has submitted that the motor cycle does not belong to the petitioner and belongs to co-accused Satbir @ Satta. It is further submitted that the petitioner undertakes not to go to the village Bacher, District Sirsa where the complainant is residing or even to the Gulak Purwa, Police Station Hussainganz, District Fatehapur (UP) which is the original residence of the complainant as the petitioner is stated to be a resident of Rajasthan.

5. Keeping in view the above said facts and circumstances moreso, the fact that the petitioner has been in custody since 28.02.2022 and there are 33 witnesses, out of which, none have been examined and thus, the trial is likely to take time and the petitioner is stated to be not involved in

any other case and also the fact that the petitioner is not named in the FIR although two persons i.e., Satbir @ Satta and Munish were specifically named in the FIR and the petitioner is stated to be the unknown person as mentioned in the FIR and even as per the FIR he was not armed with any weapon and did not even enter the room where the deceased-Pankaj had gone and was shot by Satbir @ Satta as per the FIR, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail / surety bonds to the satisfaction of the concerned trial Court/ Duty Magistrate and subject to him not being required in any other case.

6. As undertaken by the learned counsel for the petitioner, the petitioner would not go to village Bacher, District Sirsa where the complainant is residing or even to Gulak Purwa, Police Station Hussainganz, District Fatehapur (UP) which is the original residence of the complainant. The petitioner would also not threaten or influence the complainant or any of the witnesses and if there is any violation of the above said conditions, then it would be open to the State to move an application for cancellation of bail granted to the petitioner.

7. Nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

(VIKAS BAHL)
JUDGE

November 03, 2023
Davinder Kumar

Whether speaking / reasoned	Yes/No
Whether reportable	Yes/No