

CRM-M-59045-2022

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRM-M-59045-2022 (O & M)****Date of decision: 21.07.2023**

Ram Kishan alias Baba

.... Petitioner

V/s

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. R.S. Malik, Advocate, for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail to the petitioner in case FIR No.87 dated 16.03.2021 under Sections 186/307/353/34 IPC and Sections 25 & 29 of the Arms Act, 1959 registered at Police Station Sadar Gohana, District Sonapat (Haryana).

2. The brief facts of the case are that while the police party was on patrolling duty, secret information was received that Sonu @ Kala, Mohit, Mohan @ Monu and Mohit @ Gada who were hardcore criminals and had looted a jewellery shop in Gohana were roaming around at village Mudlana to village Khanpur road with an intention to commit an offence. If a raid was conducted immediately, they could be apprehended. Based on the said information, the police party proceeded to the spot and saw four young boys standing on the road. After seeing the police party, they tried to run away. However, they were asked to surrender. Then one of them who was armed with the pistol opened fire upon the police team with an intention to kill

them and a bullet struck the driver side of the Bolero vehicle. After that,

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those boys started firing on the police party with an intention to kill them. Additional force was called to the spot and the accused were asked to surrender. However, the boys kept on firing at the police team. The police party, thereafter, fired at the legs of the accused and finally apprehended them. The injured person disclosed his name as Sonu and was found to be carrying a country-made pistol of .32 bore. The second accused disclosed his name as Mohit and was found to be carrying a country-made pistol of 315 bore, the third accused disclosed his named as Mohan @ Monu and was found to be carrying a country-made pistol 32 bore and the fourth accused disclosed his named as Mohit @ Gada @ Gadda. Sonu @ Kala who suffered bullet injury was shifted to the hospital. The country-made pistol recovered from Sonu @ Kala was checked and different memos were prepared regarding the same. Similarly, the other weapons were checked, taken into possession and their recovery memos were prepared.

On the basis of the complaint, the aforementioned FIR was registered against Sonu @ Kala, Mohan @ Monu and Mohit @ Gadda. During the course of investigation, Sonu @ Kala disclosed that the country-made pistols were given to him by Ram Kishan @ Baba (petitioner) who was subsequently arrested.

3. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case only on the basis of a disclosure statement of his co-accused which has no evidentiary value. However, taking the prosecution case to be true, no role whatsoever had been attributed to the petitioner and his liability, if any, would only be under the Arms Act. As the petitioner was in custody since 22.03.2021 and only

to the concession of bail when Mohit son of Om Parkash and Mohit @ Gada son of Chand Singh who had actively participated in the occurrence and had multiple cases registered against them had been granted the similar concession vide orders dated 10.02.2023 and 10.10.2022 respectively passed by the Additional Sessions Judge, Sonipat.

4. The reply dated 15.07.2023 filed by way of affidavit of Somvir Singh, HPS, Assistant Commissioner of Police, Gohana-II, Sonipat has already been placed on record. The learned counsel for the State while referring to the aforesaid reply did not dispute the factual position that the petitioner was not apprehended at the spot and the allegation against him were only to the extent that he had supplied the weapons in question. He contends that as many as 09 cases are pending against the petitioner and in 04 other cases, he stands convicted. He, however, concedes that the petitioner is in custody since 22.03.2021, only 10 out of the 23 prosecution witnesses had been examined so far and two co-accused of the petitioner had been granted the concession of bail even though they had been active participants.

5. I have heard the learned counsel for the parties.

6. Admittedly, the petitioner was not arrested at the spot but came to be arrested subsequently on the disclosure statement of his co-accused, as per which, he had supplied the weapons to the main accused. It is yet to be established as to whether the petitioner was in conspiracy with the arrested accused. The co-accused of the petitioner, namely, Mohit @ Gada son of Chand Singh and Mohit son of Om Parkash have been granted the concession of bail even though they were active participants with multiple

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cases registered against them on account of the delay in conclusion of the trial.

6. In the instant case, the petitioner is in custody since 22.03.2021 and only 10 out the 23 prosecution witnesses have been examined so far. Therefore, no useful purpose would be served by keeping the petitioner incarcerated.

7. In view of the above, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, Ram Kishan @ Baba is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

9. The petitioner shall appear on the first Monday of every month before the police station concerned till the conclusion of the trial and furnish an affidavit each time that he is not involved in any crime/cases other than the cases referred to hereinabove.

10. If any attempt whatsoever is made by the petitioner and/or his family members/friends to contact/threaten/intimidate any of the witnesses of the present occurrence, the State/complainant shall be at liberty to move an application for cancellation of bail granted vide this order.

11. In addition, the petitioner (or someone on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from Trial without sufficient cause.

(JASJIT SINGH BEDI)
JUDGE

July 21, 2023

sukhpreet

Whether speaking/reasoned

: Yes/No

Whether reportable

: Yes/No