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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANIDGARH

Date of Pronouncement: 14.03.2023
CRM-M No.93 of 2023

Shivam Mota alias Shubham Arora Petitioner

Versus

State of Punjab Respondent

CRM-M No.2388 of 2023

Rishabh Benipal @ Nannu Petitioner

versus

State of Punjab Respondent

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. Gurpreet S. Dhillon, Advocate
for the petitioner in CRM-M No.93 of 2023.

Mr. Lakshay Bector, Advocate
for the petitioner in CRM-M No.2388 of 2023.

Mr. Gurpreet Singh Shergill, AAG, Punjab.

GURBIR SINGH, J (ORAL)

Both the petitions shall dispose of vide common order since they arise out of the same FIR.

The prayer in both the petitions filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioners in case bearing FIR No.132, dated 07.09.2022, under Sections 307, 336, 160 and 120-B of IPC, 1860 (Sections 379 and 411 of IPC, 1860 added later during the investigation) registered at Police Station Division No.3, Ludhiana, Punjab.

The case in question was registered on the basis of secret information received by SI Kulwinder Singh that, on 07.09.2022, during the night at around 1.00 a.m., two groups, out of which, one group of Shubham Mota @ Shubham Arora and second group of Puneet Bains and both groups consisting of around 10-10 persons, were having illegal deadly weapons, who were having enmity with each other since long time, after fixing time, under a conspiracy, after riding on cars and different two wheelers, armed with deadly illegal weapons, attacked on each other with the intention to kill and fired shots on each other with illegal weapons. The situation in the area became tense and by doing this act, they have also put the life and property in danger. SI Kulwinder Singh reached at the spot and one open cartridge of KF 7.65 was recovered from the spot.

Challan by the petitioners and the others were presented. After presentation of challan, an application was moved for discharge of the petitioners. Vide order dated 06.12.2022, the said application was dismissed by the learned Judicial Magistrate, Ist Class (Duty), Ludhiana.

Learned counsel for the petitioner have submitted that it is a case of no injury and there was no eye witness. The police registered the case on its own and after the investigation, presented the challan. On the application of the petitioners, they were declared innocent. An application for their discharge was filed by the police on the basis of inquiry report (Annexure P-4). The learned Judicial Magistrate, Ist Class Ludhiana dismissed the application for discharge on the technical ground that challan was already presented. No discharge application could be moved.

Learned counsel for the petitioner have submitted that petitioner Shivam Mota alias Shubham Arora is in custody since 22.09.2022 and the petitioner Rishabh Benipal @ Nannu is in custody since 23.09.2022. Learned trial Court dismissed the applications for bail of the petitioner on the ground that other cases were pending against the petitioners. He has relied upon a judgment passed by Hon'ble the Supreme Court in ***“Prabhakar Tewari vs. State of U.P. and another”***, Criminal Appeal No.152 of 2020, decided on 24.01.2020, wherein it has been stated that pendency of several criminal cases against the accused cannot be basis to refuse prayer of bail.

Learned State counsel has opposed the petitions. He submits that petitioner, namely, Shivam Mota @ Shubham Arora is involved in 08 other criminal cases, while Rishabh Benipal @ Nannu is involved in 12 other cases of similar nature.

Learned counsel for the petitioner have further submitted that the petitioners are not absconding in any case. They are facing each and every case, so, they are entitled for bail.

I have heard learned counsel for the parties and going through the material available on record.

Keeping in view the fact that the case in question was registered on the basis of secret information and no evidence is collected during investigation, if anybody had suffered any injury. Challan is already presented. The petitioners are in custody and the completion of trial will also take a long time, no useful purpose would be served by keeping the petitioners behind bars for a long period.

Accordingly, without commenting upon the merits of the case, both the petitions are allowed and the petitioners, namely, Shivam Mota alias Shubham Arora and Rishabh Benipal @ Nannu are directed to be released on regular bail, on their furnishing bail bonds/surety bonds, to the satisfaction of learned Trial Court/Duty Magistrate, concerned.

However, nothing contained herein above shall be construed as an expression of opinion on the merits of the case.

14.03.2023
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(GURBIR SINGH)
JUDGE

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