

(235)
IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-694-2024
Date of Decision: 15.01.2024

AJAY

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Ms. Neeru Bansal, Advocate
for the petitioner.

Mr. Kanwar Sanjiv Kumar, Asstt. A.G., Haryana.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.30 dated 18.01.2022 registered under Sections 307, 205, 34 IPC, 1860 and Section 25 of Arms Act, 1959 (charge framed under Sections 307, 201 (iii), 34 IPC and Section 25 of Arms Act) at Police Station Kundli, District Sonipat, Haryana.

2. The instant FIR came to be registered on the basis of a complaint made by Vishal son of Parvesh who stated that about 10/15 days ago, he had a quarrel with Yogesh @ Dhola (granted bail vide order dated 30.11.2023 passed in CRM-M-57131-2023) son of Jagat Singh which had been resolved with the intervention of the Panchayat. On 17.01.2022, he (complainant) along with his friend Ritesh son of Yogender was sitting in his car. In the meantime, Yogesh @ Dhola along with 4/5 persons came there and open fired with an intention to kill them (complainant party). Ritesh received gunshot injuries while he (complainant) hid himself.

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Yogesh @ Dhola, Sarvesh (granted bail vide order dated 30.11.2023 passed in CRM-M-44880-2023) and Ajay (petitioner) son of Narender were arrested in other cases on 26.01.2022 and suffered their disclosure statements stating that they had committed the present offence as well.

Thereafter, the statement under Section 161 Cr.P.C. of Ritesh and Parvesh was recorded on 05.02.2022 whereby they named the present petitioners.

3. The learned counsels for the petitioners contend that the complainant/Vishal has been examined as PW1, Ritesh as PW-13 and Parvesh as PW14. They have not supported the prosecution case and have been declared hostile. As the petitioner was in custody since 27.01.2022, he was entitled to the concession of bail.

4. The learned State counsel contends that Yogesh @ Dhola was named in the FIR and is the main accused. Even Sarvesh had fired at the complainant party. The petitioner was accompanying them. Recoveries had been effected from the accused. Therefore, he was not entitled to the concession of bail. He, however, concedes that witnesses stand examined and have not supported the prosecution case as also the fact that 2 other accused have been granted bail. He also concedes that the petitioner is in custody since 27.01.2022 and as many as 19 out of the 32 prosecution witnesses had been examined so far and 13 remain to be examined.

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

6. Admittedly, the three main witnesses namely, complainant-Vishal, Ritesh and Parvesh have been examined and have not supported the

case of the prosecution. Whether the other evidence available on record is sufficient to affix liability upon the petitioner shall be adjudicated upon during the course of the Trial. The petitioner is in custody since 27.01.2022, as many as 19 out of 32 prosecution witnesses have been examined so far and 13 prosecution witnesses remain to be examined. Therefore, the Trial of the present case is not likely to be concluded anytime soon. In this situation, the further incarceration of the petitioner is not required.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Ajay son of Narender is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the Trial and inform in writing each time that he is not involved in any other crime other than the present case.

9. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.50,000/- each 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.

10. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

15.01.2024

JITESH

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