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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M No. 5526 of 2024

Date of Decision: 07.02.2024

SURENDER

... Petitioner

Versus

STATE OF HARYANA

... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. Kushager Goyal, Advocate for the petitioner.

Mr. Vishal Malik, DAG, Haryana.

SANJIV BERRY, J.

The instant petition has been preferred by the petitioner under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in the following case (Annexure P-1):-

FIR No.	Dated	Sections	Police Station
215	24.07.2023	323, 341, 285, 506, 34 IPC and 25 of the Arms Act.	Bhattu Kalan, District Fatehabad

2. In *nutshell*, the case put forth by the prosecution is that on 24.07.2023 at about 7:00 pm Maha Singh and his nephew Kapil Dev were walking on the road in front of Dhani, in the meanwhile, one car restrained their way, Shiv Kumar, Surender and Pankaj alighted from the vehicle, Shiv Kumar was carrying pistol, Surender and Pankaj were having iron pipes.

Surender Gave iron pipe blows on complainant's right elbow and waist, Pankaj gave iron pipe blows on left elbow, fingers and waist of his nephew Kapil Dev and Shiv Kumar fired shot in air from his pistol, on raising hue and cry, all the assailants fled away extending threats to kill in future, and hence the FIR was registered.

3. It is *inter alia* contended by the learned counsel for the petitioner that the petitioner is innocent and has been falsely implicated in this case. He submits that petitioner is in custody since 04.08.2023 and the injuries attributed as per the case of the prosecution are on right elbow and waist with blunt weapon. He contends that cross version of the case has also been registered against the complainant party. He submits that co-accused Pankaj has been granted concession of bail by this Court vide order dated 01.12.2023 (Annexure P-2), challan has already been presented in Court on 22.09.2023 and the conclusion of trial will take sufficient long time, as such he prays for grant of concession of bail.

4. *Per contra* learned State counsel has opposed the bail application by submitting that considering the nature and gravity of the offence, petitioner do not deserve concession of bail. However, he has not disputed the factual matrix of the case and submits that out of 16 witnesses cited by the prosecution, none of the them have been examined till date.

5. After considering the rival contentions and perusing the record, it transpires that the alleged injuries attributed to the petitioner are from blunt weapon and stated to be simple in nature. Co-accused Pankaj has been granted concession of bail by this Court vide order dated 01.12.2023 (Annexure P-2). The petitioner is in custody since 04.08.2023, out of 16

witnesses cited by the prosecution, none of the them have been examined till date and criminal liability, if any, on the petitioner, could be ascertained after conclusion of the trial, which would take sufficient long time and no purpose would be served by detaining the petitioner in custody any longer.

6. Resultantly, without commenting on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail, subject to furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court concerned, if not required in any other case; undertaking to regularly appear on each and every date; not to leave the country without prior permission of the Court; and not to tamper with evidence of prosecution in any manner.

7. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

(SANJIV BERRY)
JUDGE

07.02.2024
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i)	Whether speaking/reasoned?	Yes/No
ii)	Whether reportable?	Yes/No