

CRM-M-13046-2024

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(218)
IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-13046-2024
Date of Decision: 25.04.2024

PANKAJ YADAV

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Prateek Rathee, 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.349 dated 03.06.2023 registered under Sections 307, 387 and 34 IPC, 1860 and Sections 25(1-B) (A) of Arms Act, 1959 at Police Station Palam Vihar, District Gurugram, Haryana.

2. The brief facts of the case are that on 03.06.2023 information was received that a gunshot had been fired behind the CNG Pump in the area of P.S. Palam Vihar, Gurugram and one person had been caught there. On this information, the police officials reached the spot and the person who had been caught disclosed his name as Harsh @ Hunny who had been found to be injured. Meanwhile, the complainant-Pravesh Yadav submitted a complaint alleging that on 29.05.2023 at about 01.40 AM he had received a telephonic call from mobile No.7217621972 and the person on the other side had

disclosed his name as Harsh @ Hunny and had demanded a sum of Rs.5 lakhs from him (complainant). On 02.06.2023 Harsh @ Hunny had again called him up and had again demanded money. At about 12.30 AM while he (complainant) his brother Pritam and his friends Gyan Singh and Mohan were sitting at his office, at that time, Harsh @ Hunny, Banti and Pankaj Yadav (petitioner) had come on a motorcycle and had started beating him. Bunti had taken out a pistol and fired upon his (complainant's) brother Pritam and the bullet hit him on his arm. After the occurrence, all the three had started running away but Harsh @ Hunny had fallen down and had suffered injuries. He was caught at the spot. His (complainant's) brother had been taken to General Hospital, Gurugram for treatment. Legal action was sought.

During the course of investigation, the Splendor motorcycle and Chappal were taken into police possession and empty cartridge and blood-stained earth was lifted from the spot.

Harsh @ Hunny arrested on 03.06.2023. The MLR of injured Pritam was obtained and as per the opinion of the doctor, the injuries suffered by him were grievous in nature.

The accused Bunti was arrested on 06.06.2023 and on his disclosure statement the recovery of the pistol used in the present occurrence was effected.

The report under Section 173 Cr.P.C. was presented against Harsh @ Hunny and Bunti on 22.08.2023.

The petitioner was arrested on 11.10.2023 and a supplementary challan against him was submitted on 02.01.2024.

3. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. The demand of the alleged amount of Rs.5 lakhs was raised by the co-accused Harsh @ Hunny. Bunti had fired upon Pritam, brother of the complainant. So far as the present petitioner was concerned, no specific role or injury had been attributed to him. He contends that the applicability of Section 34 IPC shall be a matter of adjudication during the course of Trial. As the recoveries had already been effected, the petitioner had been in custody since 11.10.2023 but none of the 29 prosecution witnesses had been examined so far, the Trial of the present case was not likely to be concluded anytime soon and therefore, he was entitled to the concession of bail.

4. A reply dated 10.04.2024 by way of an affidavit of Naveen Sharma, HPS, Asstt. Commissioner of Police, Udyog, Gurugram has been filed on behalf of the State by the learned counsel for the State. The same is taken on record. While referring to the reply, he contends that the offence is well-established against the petitioner as well. All the three accused came to the spot together and it cannot be said that the petitioner was unaware that his co-accused was carrying a firearm. After the occurrence, two of the accused including the petitioner managed to flee away whereas the third came to be arrested at the spot. Therefore, the nature of the allegations levelled against the petitioner and his co-accused did not entitle him to the grant of regular bail. He, however, concedes that the petitioner was a first-time offender, in

custody since 11.10.2023 and that none of the 29 prosecution witnesses had been examined so far.

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

6. The veracity of the prosecution case against the petitioner and his co-accused shall be adjudicated upon during the course of the Trial. Admittedly, the petitioner is a first-time offender, in custody since 11.10.2023 and none of the 29 prosecution witnesses have been examined so far. 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-Pankaj Yadav son of Ratan Singh is ordered to be released on bail subject to 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. If the petitioner or his family members/associates make any attempt to contact/threaten/intimidate the witnesses in the present case, the State would be at liberty to move an application for cancellation of bail granted vide this order.

10. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.2,00,000/- and deposit the same with the Trial

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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..

11. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

25.04.2024

JITESH

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