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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-14855-2024
Date of decision : 05.04.2024

KULDEEP @ COMMANDOPetitioner

Versus

STATE OF HARYANARespondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Harsh Rana, Advocate
for the petitioner.

Mr. A.K. Sehrawat, DAG, Haryana.

PANKAJ JAIN, J. (ORAL)

This petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.130 dated 26.10.2022, registered for the offences punishable under Sections 307, 341 and 34 of Indian Penal Code, 1860 & Section 25-54-59 of Arms Act, 1959 at Police Station Rohadai, District Rewari

2. Custody Certificate of the petitioner has been filed today in Court. The same is taken on record.
3. Counsel for the petitioner relies upon order dated 7th of March, 2024 passed in CRM-M No.6631 of 2024 whereby similarly situated co-accused namely Deepak @ Shooter has been granted regular bail pending trial observing as under:

“1. Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.130

dated 26.10.2022, registered for the offences punishable under Sections 307, 341, 34 IPC & Section 25 of Arms Act at Police Station Rohdai, District Rewari.

2. FIR was registered with respect to gunshot injury received by Praveen and Sunil. On the written information supplied by Sunil, FIR was registered as under:-

“I am Sunil Kumar S/o Hansraj resident of Rohdai and I am a partner of Praveen in Deepak Hotel NH 71 Rakba Basota Chandanwas on date 25/26-10-2022 1 and Praveen were present at the hotel when around 12.30 AM two boys came to the hotel to have food on a motor cycle and after having food asked to take the money from Kuldeep alias Commando son of Kila Chand, resident of Rohdai and one gave his name as Rohit Nansupura and the other He told Deepak alias Shooter, resident of Mohdiniapur, I said that I don't know you talk to Praveen who is sitting at the counter and both the boys will talk to Praveen for some time and get money for food. Gave the money and went away. 15-20 minutes later, Rohit and Deepak and Kuldeep came back to the hotel with resident Rohdai. As soon as they came, Deepak and Rohit were standing and Kuldeep said that no one has borrowed in my name on which Praveen He said, “You did not ask me to borrow anything”, on which Kuldeep started abusing me. When I refused to abuse me, Kuldeep said, “Rohit, shoot him”, on which Rohit shot me on my left leg with the pistol in his hand. After that, Deepak alias Shooter said abuse Praveen, Rohit opened fire with the intention of killing Praveen, one bullet hit Praveen on his left leg and after that the pistol did not fire at me and the hotel workers. Deepak and Kuldeep caught me and Praveen. Rohit Tansukhpura and Deepak residents of Mohdiniapur, Kuldeep abused and opened fire on us with the intention of killing us. Legal action should be taken against them.xxx”

3. The allegation against the petitioner is of having instigated Rohit and Kuldeep @ Commando, who fired upon Sunil and Praveen. Injuries suffered are on the knees. Petitioner is behind

bars for more than 01 year, 04 months and 11 days. Challan already stands presented. 05 material witnesses, out of 16 already stand examined.

4. In view of above, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.

5. Needless to say nothing recorded herein shall be construed to be an expression of an opinion on the merits of the case.”

4. Counsel for the petitioner further submits that the petitioner has undergone actual custody of 1 year, 5 months and 5 days. Investigation already stands concluded and Challan stands presented. Thus, there can't be any apprehension that the petitioner shall tamper with the evidence. He claims parity.

5. State Counsel is not in posititon to dispute that the petitioner is similarly situated to that of his co-accused Deepak @ Shooter.

6. I have heard counsel for the parties and have gone through records of the case.

7. Without commenting on the merits of the case, keeping in view the incarceration already suffered by the petitioner and the fact that the investigation already stands concluded and Challan stands presented, granting parity viz-a-viz Deepak @ Shooter, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

8. Needless to say that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

April 05, 2024		(Pankaj Jain)
Dpr		Judge
	Whether speaking/reasoned	: Yes/No
	Whether reportable	: Yes/No