

CRM-M-15703-2023

Date of Decision:01.02.2024

Rakesh alias Fatti

...Petitioner

vs.

State of Haryana

...Respondent

Coram : Hon'ble Mr. Justice N.S. Shekhawat**Present :** Mr. Abhimanu Jangra, Advocate
for the petitioner.

Ms. Sheenu Sura, DAG, Haryana.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the instant petition under Section 439 of the Cr.P.C. with a prayer to grant regular bail to him in case FIR No.578 dated 29.09.2021 registered under Sections 342, 395, 397, 307, 34, 120-B of IPC and Sections 25, 25(1)(A), 54, 59 of Arms Act, at Police Station Mujesar, District Faridabad.

2. Learned counsel for the petitioner contends that the petitioner was not named in the FIR and he had no connection with the alleged crime. Learned counsel further submits that the petitioner was named in the second disclosure statement of Sumit Kumar, wherein he stated that the petitioner had allegedly supplied the weapon of offence to the principal accused. He further submits that as per the admitted case of the prosecution, the petitioner was not present at the place of occurrence and the only role assigned to him is that he had supplied the weapon to one of the accused. Learned counsel further submits that during

the course of investigation, a country made pistol with magazine was recovered from the present petitioner, however, the police could not collect any evidence to show that the said weapon was used in the commission of crime in the present case. Learned counsel further relies upon the orders Annexures P-8 and P-9, passed by this Court, whereby Vipul and Shubham Kumar have already been granted the concession of bail in CRM-M-16587-2022 decided on 27.04.2022 and CRM-M-26586-2022 decided on 07.07.2022. He further contends that the petitioner was arrested in the present case on 06.12.2021 and the complainant and one injured witness have already been examined by the trial Court. Thus, there are no chances of tampering with the prosecution evidence in the present case.

3. On the other hand, learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner on the ground that the petitioner had supplied the weapon to the main accused, who had gone at the shop of the complainant and had fired the shots. She further contends that the bail application filed by co-accused Anshu @ Monu has been dismissed by this Court. However, she admits that Anshu @ Monu had actually participated in the commission of crime.

4. I have heard learned counsel for the parties and perused the record.

5. The petitioner was arrested in the present case on 06.12.2021 and is in custody for the last about 2 years and 02 months. Even the complainant and one injured witness have already been examined and the conclusion of the trial may take quite a long time. Apart from that, it is also the admitted case of the prosecution that the petitioner was not present at the place of alleged occurrence.

6. Without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate, concerned subject to the following conditions:-

- (i) *The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him to disclose such facts to the Court or to any other authority.*
- (ii) *The petitioner shall remain present before the Court on the dates fixed for hearing of the case.*
- (iii) *The petitioner shall not absent himself from the Court proceedings except on the prior permission of the Court concerned.*
- (iv) *The petitioner shall surrender his passport, if any, (if already not surrendered), and in case he is not holder of the same, he shall swear an affidavit to that effect.*
- (v) *The petitioner shall also file his affidavit before the concerned Court, mentioning his ordinary place of residence and number of mobile phone, which shall be used by him during the pendency of the trial. In case of change of place of residence/mobile number, he shall share the details with the concerned Court/learned Trial Court.*
- (vi) *In case, the petitioner involves in any other criminal activity, during the pendency of the trial, it shall be viewed seriously and the prosecution shall be at liberty to move a petition for cancellation of bail granted to him.*
- (vii) *The concerned Court may insist on two heavy local sureties and may also impose any other condition, in accordance with law, while accepting the bail bonds and surety bonds of the petitioner.*
- (viii) *The petitioner shall report every 1st Monday of English calander month before the concerned SHO till the conclusion of the trial and SHO shall mark his presence by making an entry in the rojnamcha. In case, he does not report on every 1st Monday before the concerned SHO, it shall be viewed seriously and the concession granted to him shall be liable to be cancelled and the State of Haryana shall be at liberty to move an appropriate application in this regard.*

01.02.2024
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(N.S.SHEKHAWAT)
JUDGE

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