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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-16770-2024**Date of Decision: 21.10.2024**

Digamber @ Duggan

...Petitioner

vs.

State of Haryana

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. Shashi Kumar Yadav, Advocate
for the petitioner.

Mr. Rajinder Kumar Banku, Deputy Advocate General, Haryana.

Mr. Kunal Dawar, Advocate
for the complainant.

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 in case FIR No.41 dated 09.02.2023 registered under Sections 302, 34 of IPC and Sections 25, 54, 59 of Arms Act, at Police Station Mundkati, District Palwal.

2. Learned counsel for the petitioner contends that as per the version of the complainant in the FIR, Digamber @ Duggan, the petitioner and Manjit were carrying country-made pistols and they had fired one shot each on Chanderpal, father of the complainant. Learned counsel further contends that during the course of investigation, only one country-made pistol was recovered from Manjit and it was also established during the course of investigation that Chanderpal had died due to gun shots fired from the said pistol. Learned counsel further submits that during the course of investigation, no fire arm was



recovered from the present petitioner and he has been falsely involved in the present case by exaggerating the allegations. Learned counsel further contends that the petitioner was arrested in the present case on 17.03.2023 and is in custody for the last more than 01 year and 07 months. During the course of trial, the complainant has been examined as a witness and the conclusion of the trial may take quite a long time.

3. On the other hand, learned State counsel assisted by learned counsel for the complainant have vehemently opposed the submissions made by learned counsel for the petitioner on the ground that the petitioner had also fired gun shots on Chanderpai, since deceased. Even during the course of trial, the complainant has been examined as a witness before the trial Court and he had specifically attributed the same role to the present petitioner. However, learned State counsel admits that only one country-made pistol was recovered from Manjit and no fire arm was recovered from the present petitioner. Learned State counsel further submits that the petitioner is the first offender and was never involved in any other criminal activity earlier.

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

5. No doubt, the allegations levelled against the petitioner are serious in nature, but this Court cannot be oblivious of the fact that only one country-made pistol has been recovered from Manjit, co-accused/non-applicant, who is already in custody in the present case. No recovery was effected from the present petitioner and he is stated to be in custody for the last more than 01 year and 7 months.

6. Thus, without commenting any further 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.

7. The observations in the present order have been made only for the limited purpose of disposal of the bail application and the trial Court shall be at liberty to decide the trial independently, on the strength of the evidence lead by both the parties.

21.10.2024.
hemlata

(N.S.SHEKHAWAT)
JUDGE

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