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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-18572-2024
Date of decision:-17.07.2024

SANDEEP

... Petitioner

Versus

STATE OF HARYANA

... Respondent

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

Present:- Mr. R.N. Lohan, Advocate for the petitioner.

Mr. Ramender Singh Chauhan, AAG, Haryana.

SANJIV BERRY, J.(ORAL)

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

FIR No.	Dated	Sections	Police Station
87	08.03.2022	302, 148, 149 IPC and 25 of Arms Act	Julana, District Jind

2. It is *inter alia* contended by learned counsel for the petitioner that the petitioner is innocent and has been falsely implicated in this case and he is in custody since 09.03.2022. He submits that no specific overt act has been attributed to the petitioner except for he being named in the FIR. He submits that in the FIR fake allegations have been levelled against the petitioner of having caused injuries on the person of the deceased, however



from the medical evidence on record, it is amply established that except the three gunshot injuries sustained by the victim, there is no other injury on his body and in this regard he has referred to the post mortem report of the deceased. He contends that the allegations qua the gunshot injuries are levelled against the co-accused Pardeep. He further submits that, similarly situated co-accused Sanjay has already been granted concession of bail vide order dated 19.03.2024 passed in CRM-M-38437-2023. Hence he prays for grant of concession of regular bail to the petitioner.

3. Per contra, learned State counsel referring to the reply submitted by the State has not disputed the factual matrix of the case. He categorically stated that the case of petitioner is at par with that of co-accused Sanjay. He, however, opposed the bail application by arguing that the petitioner alongwith co-accused being members of unlawful assembly had committed murder of Dharmender @ Gabbu and caused multiple injuries on his person, as such he is not entitled to concession of bail. On query, he fairly intimated that the complainant eye witness has already been examined during course of trial and no specific injury is attributed to the petitioner.

4. After considering the rival contentions and perusing the record, it transpires that the instant case was registered on the statement of Jai Bhagwan to the effect that on 07.03.2023 at around 09:30 pm while he was sitting in the liquor shop alongwith cousin Dharmender @ Gabbu then accused Pardeep, Sandeep, Vijay, Kala, Sanjay, Takdir and Naresh had given beatings to his cousin Dharmender. The complainant tried to intervene and rescue his cousin but in the meanwhile Pardeep fired from his pistol and co-accused Vijay also fired from his weapon on Dharmender @ Gabbu, as a

result, he fell down and all the accused persons then ran away from the spot. The matter was reported to the police and the case was registered. It is evident from the post mortem report that the deceased is alleged to have suffered 3 gunshots injuries. None of the gunshot has been attributed to the present petitioner and according to the FIR gunshots are alleged to have caused by co-accused Pardeep and Vijay and even in the statement of complainant eye witness during course of trial no specific overt act has been attributed to the petitioner. Admittedly, the role attributed to the petitioner is at par with co-accused Sanjay who has since been granted concession of bail vide order dated 19.03.2024 passed in CRM-M-38437-2023. The petitioner is in custody since 09.03.2022. The conclusion of trial will take sufficient long time, to ascertain criminal liability, if any, of the petitioner. The petitioner is not having any criminal antecedents, therefore no purpose would be served by detaining the petitioner any longer in custody.

5. Resultantly, the present petition is allowed. The petitioner is ordered to be released on regular 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.

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

(SANJIV BERRY)
JUDGE

17.07.2024

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