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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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CRM-M No.21042 of 2024
Date of decision: 24.07.2024

Mohit ... Petitioner

Vs.

State of Haryana ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Edward Augustine George, Advocate,
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana,
for the respondent-State.

Mr. Gagandeep Singh Simble, Advocate,
for the complainant.

MANISHA BATRA, J. (Oral)

1. The present petition has been filed by the petitioner seeking anticipatory bail in case arising out of FIR No.168 dated 24.11.2019 registered under Sections 307, 323, 341, 506, 201, 120-B and 34 of IPC and Section 25 of Arms Act, 1959 at Police Station Alewa, District Jind.

2. Brief facts of the case relevant for the purpose of disposal of

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the present petition are that the aforesaid FIR was registered on the statement of Ramesh son of Hari Ram as recorded on 23.11.2019 alleging therein that on the same day, he had gone towards the water supply tank near the Bani of his village, when the petitioner along with co-accused Himanshu reached there. The petitioner hurled abuses to him and then at once took out a countrymade pistol and shot a fire upon his chest with the same. He raised rescue alarm on hearing which public persons gathered at the spot and then the petitioner and co-accused Himanshu fled away. He was rushed to the hospital for treatment. After registration of FIR, investigation proceedings were initiated. During investigation, the present petitioner and co-accused Himanshu were found to be innocent. However, four more persons namely, Ramesh @ Mesha, Lakhan @ Lakhi, Sunil and Jitender were arrested on finding their complicity in the subject crime. After completion of necessary investigation, challan was presented in the Court. In his sworn deposition recorded during trial, the complainant took the name of the present petitioner and co-accused Himanshu as the persons who had made attempt to kill him by firing shot with a pistol. An application under Section 319 of Cr.P.C. was moved by the prosecution for arraigning the present petitioner and co-accused Himanshu as additional accused. This application was allowed vide order dated 19.03.2024 and the petitioner and Himanshu were ordered to be summoned as co-accused.

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Apprehending his arrest, the petitioner moved application for pre arrest bail which has been dismissed by the learned trial Court vide order dated 20.04.2024.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case in pursuance of a deep rooted conspiracy hatched by the complainant and to settle score with him. He was declared to be innocent by the investigating agency. The investigation has proved that he was not present at the spot of occurrence at the relevant time and was taking care of his ailing father. The call detail record of the petitioner also corroborated this fact. The co-accused already arraigned had suffered disclosure statements and did not name the petitioner at all. The investigation has since been completed. Custodial interrogation of the petitioner is not required. He has already joined the proceedings before the learned trial Court. With these broad submissions, it is urged that the petition deserves to be allowed.

4. Status report has been filed by the respondent-State. It is argued by learned State counsel assisted by learned counsel for the complainant that since the petitioner has been summoned as an additional accused on account of committing a serious offence, therefore, there is possibility of violation of terms and conditions of the bonds and giving threats to the material prosecution witnesses on the part of the petitioner if extended benefit of bail and, therefore, it is urged that the petition does

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not deserve to be allowed.

5. I have heard learned counsel for the parties at considerable length and have gone through the record.

6. It is relevant to mention that vide order dated 30.04.2024, the petitioner was directed to appear before the trial Court and on his appearance, he was ordered to be released on interim bail to the satisfaction of the Court. The petitioner has joined proceedings before the learned trial Court. Since he had been summoned under Section 319 of Cr.P.C. after completion of investigation and during the course of trial, therefore, obviously, the custodial interrogation of the petitioner is not required. Undoubtedly, there are allegations in the FIR qua the petitioner's firing a shot with a pistol upon the complainant and making an attempt to kill him. However, keeping in view the peculiar circumstances that the petitioner had previously been declared innocent and has been summoned as an additional accused and question as to his presence at the spot have been disputed by him and as his custodial interrogation is not required, I am of the considered opinion that no useful purpose would be served by detaining the petitioner in custody and his presence can be secured even otherwise also.

7. In view of the discussion as made above, the petition is allowed and the order dated 30.04.2024 (modified on 15.05.2024) qua admitting the petitioner to interim bail is ordered to be made absolute subject to

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compliance of usual terms and conditions under Section 438 (2) of Cr.P.C. The learned trial Court may ask the petitioner to furnish personal as well as surety bonds if the same are not furnished till date.

24.07.2024	(MANISHA BATRA)
manju	JUDGE
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No