

2024.PHHC:097704



219.

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

CRM-M-27135-2024 (O&M)

Date of decision: 31.07.2024

Lokesh alias Lokesh Kapasiya

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. Keshav Pratap Singh, Advocate and
Ms. Megna Nehra, Advocate, for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana.

GURBIR SINGH, J.

1. This petition has been filed under Section 439 of Cr.P.C. for grant of regular bail to the petitioner in case FIR No.460, dated 24.07.2023, under Sections 148, 149, 160, 285, 307, 323, 325, 336, 34 of IPC, 1860 and Section 25 of Arms Act, 1959 (Sections 149, 323, 325 and 307 of IPC added lateron), registered at Police Station Ballabhgarh City, District Faridabad.

2. The aforesaid FIR has been registered with the allegations that on 24.07.2023, police party, while on patrolling duty, heard gunshot from the parking area near the Bus Stand, Ballaghgarh. The police party led by ASI Santosh Kumar reached at the spot and found many youngsters carrying sharp-edged weapons and fire-arms, were firing in the air with an

intention to create terror in the general public. The police party apprehended three boys from the spot, namely, Bhupender, Sagar and Amit and they disclosed the names of other accused.

3. Learned counsel for the petitioner has argued that it is on the basis of CCTV footage, petitioner has been implicated in the present case. No specific role has been attributed to the petitioner. Petitioner is not named in the FIR. Challan in the case has been presented. Petitioner is in custody since 09.10.2023. Trial in the case will take long time to conclude. Even otherwise, co-accused of the petitioner, namely, Koshinder, Shiv Kumar @ Sibba, Daljeet, Bhupender and Harun have already been granted regular bail by learned Additional Sessions Judge, Faridabad vide orders dated 07.02.2024, 08.02.2024, 12.02.2024, 20.02.2024 and 02.03.2024 (Annexures P-2 to P-6) respectively. The other co-accused, namely, Amit, Ravi Faujdar and Sagar have also been granted regular bail by this Court vide order dated 05.02.2024 and 12.02.2024 (Annexures P-7 and P-8).

4. Learned State counsel has filed reply by way of affidavit dated 16.07.2024 of Aman Yadav, HPS, Assistant Commissioner of Police, Crime, Faridabad, on behalf of respondent-State, along with Annexures R-1 to R-4, which is taken on record. He has opposed the bail petition by contending that the petitioner has actively participated in the commission of crime. He was very much present at the spot which is evident from the CCTV footage collected by the police. His name surfaced during the disclosure statements of co-accused. One pistol along with three cartridges

and a motorcycle used in the commission of crime were recovered from his possession. He further submits that out of total 19 accused, only 14 accused have been arrested so far. Moreover, petitioner is found to have been involved in four other cases. He is habitual offender and thus, not entitled for the concession of bail.

5. I have heard the submissions of learned counsel for the petitioner, learned State counsel and have gone through the paper book.

6. On asking, learned State counsel has submitted that the matching of the weapon recovered from the possession of the petitioner with the recovered empty cartridges, has not been got done from the ballistic expert. Thus, it cannot be said that the weapon recovered from the possession of the petitioner was used in the commission of crime, in question. No specific role has been attributed to the petitioner. Petitioner is in custody since 09.10.2023. Completion of trial will take long time to conclude. Pendency of other cases is no ground to decline bail to the petitioner. Moreover, in those cases, he has not been convicted yet and is on bail.

7. Considering the fact that petitioner is in custody for the last 9 months and 22 days, other co-accused have already been granted bail, trial in the case will take long time to conclude, this Court deems it appropriate to release the petitioner on regular bail.

8. Accordingly, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on

regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of concerned learned trial Court/Chief Judicial Magistrate/Duty Magistrate, with a further condition that the petitioner shall get his mobile phone registered in the trial Court for receiving messages on CIS system and shall not change his mobile phone during the pendency of the case. He shall also furnish his residential address to the trial Court as well as to the concerned police station and shall not change his residence without intimation to the concerned police station. The trial Court may impose any other condition as it deems fit.

9. However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case and the trial Court shall decide the case on the basis of material available before it.

10. Pending application, if any, shall also stand disposed of.

(GURBIR SINGH)
JUDGE

July 31, 2024

sanjeev

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No