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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-39971-2024 in/and
CRM-M-29351-2024
Date of decision : 03.10.2024

Anil @ Monu

.....Petitioner

versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Vinod Ghai, Senior Advocate with
Mr. Arnav Ghai, Advocate and Ms. Kashish Sahni, Advocate
for the petitioner.

Mr. Sumit Jain, Addl. A.G., Haryana

RAJESH BHARDWAJ, J. (Oral)

CRM-39971-2024

Prayer in the present application is for placing on record
order dated 21.09.2024 as Annexure P-6.

For the reasons mentioned in the application, same is allowed.
Order dated 21.09.2024 as Annexure P-6, is taken on record.

CRM-M-29351-2024

1. Present petition has been filed by the petitioner under Section 439 Cr.P.C. praying for grant of regular bail in case FIR No.21 dated 23.01.2024, under Sections 307, 302, 394 and 34 IPC and Section 25 of Arms Act (offence under Section 201 IPC and Section 29 Arms Act added later on), registered at Police Station Sadar, Ratia District, Fatehabad.
2. Brief facts of the case are that the present case was registered on the basis of statement of complainant, namely, Updesh Kumar, wherein it was alleged that on 23.01.2024, at about 4.00 P.M., when he along with Sunil



and Kulvit Singh were sitting, then 02 unknown persons came into their cabin, whereas one of the person stood outside and they all were having weapons in their hands. One of them pointed his revolver on his (complainant's) head and another on head of Kuldeep and told them to give whatever money they have, otherwise they would be killed, due to which, a scuffle took place between them and the person who had put his revolver on the person of Kuldeep, fired which hit on the glass of cabin and pellets of that hit the finger of complainant's right hand. Then they overpowered those boys. Thereafter the third person, who was standing outside, also fired shots due to which Dholu Ram also received bullet injury on his left leg and Jishan who was there tried to caught hold the said person, then he was also given a push blow due to which he received serious injury on his head and blood started oozing from his mouth. Jishan died on the way to hospital. Two of the accused persons were apprehended at the spot itself and on enquiry, they disclosed their names as Suresh Kumar son of Ram Dass, and Baljeet son of Mohan Lal and they disclosed the name of third boy as Sumit @ Kali, who fled away from the spot. Request was made to take legal action against the accused. Thereafter investigation commenced and during investigation medical reports of injured were collected and the petitioner was arrested on 14.03.2024 and on interrogation he disclosed that about 02 months ago, he sold a revolver to co-accused Suresh Kumar. The petitioner approached the Court of Learned Sessions Judge, Fatehabad praying for grant of bail, however, finding no merit, the same was declined after hearing both the sides by Ld. Sessions Judge, Fatehabad vide order dated 02.05.2024. Aggrieved by the same, the petitioner approached this Court praying for grant of bail.

3. Learned Senior counsel for the petitioner has contended that the occurrence in the present case had taken place on 23.01.2024, and the FIR



was lodged on the statement of first informant, namely, Updesh Kumar. He has submitted that as per the allegations made in the FIR, it is apparent that the petitioner is neither named in the FIR nor there is any role attributed to him. However, thereafter the investigating agency recorded the disclosure statement of the co-accused. The first disclosure statement was recorded on 25.01.2024, wherein there was no whisper regarding the accused/petitioner. However, the investigating agencies thereafter recorded the second disclosure statement of the co-accused on 26.01.2024, and here the petitioner was deliberately named as an accused in the present case, on the allegation that it is the petitioner who provided the firearm to the co-accused, namely, Suresh Kumar. He submits that the disclosure statement made by the co-accused in itself is no evidence. He submits that after filing the challan, learned trial Court has framed the charges. As it is evident from the charge framed that the only charge framed against the petitioner is for the offence under Section 25 and 29 of the Arms Act. He submits that as per the case of the prosecution the petitioner is not even being prosecuted for the offence under Section 302 or 307 IPC. He submits that he is behind bars from 14.03.2024. He submits that though the petitioner is involved in 19 other cases but that in itself is no ground to discard bail to the petitioner as his false implication is writ large.

4. Learned State counsel, however, though has opposed the submissions made by learned Senior counsel for the petitioner. He has submitted that the petitioner is a habitual offender as he is being prosecuted in 19 other cases. However, he fairly submits on instruction from SI Sanjay Kumar, PS Ratia, Fatehabad that the petitioner in the present case is charged only for the offence under Section 25 and 29 of the Arms Act. He submits that the case is fixed for the prosecution evidence and none of the PWs have



been examined till date.

5. Heard. On hearing counsel for the parties and perusing the record, it is apparent that the petitioner has not been attributed any role by the complainant in the FIR. Even, during the investigation no role regarding committing murder has been attributed and the petitioner has only been charged for the offence under the Arms Act and he is behind bars since 14.03.2024. Though it is on record that the petitioner is facing prosecution in 19 other cases but the same itself is no ground for not considering bail in the present case. Every case would rest on its own facts and circumstances.

6. The veracity of the allegations would be assessed only after conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. The trial of the case will take sufficiently long time. Thus, keeping in view the overall facts and circumstances of the case, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

03.10.2024
ps-I

(RAJESH BHARDWAJ)
JUDGE

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