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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-36490-2023

Date of Decision: 16.01.2024

Ravi Kumar alias Ravi Boxer

...Petitioner

VS.

State of Haryana

...Respondents

Coram : Hon'ble Mr. Justice N.S.Shekhawat**Present :** Mr. Vikas Bishnoi, Advocate
for the petitioner.

Ms. Sheenu Sura, DAG, Haryana.

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.540 dated 09.11.2022 registered under Section 25 of Arms Act, 1959 and Sections 148, 149, 307 of IPC but during investigation Sections 302 and 120-B IPC were added, at Police Station City Tohana, District Fatehabad.
2. The FIR in the present case was registered on the basis of the statement made by Vinod Kumar son of Krishan Kumar and the same has been reproduced below:-

“Statement of Vinod Kumar son of Krishan Kumar son of Chanda Ram resident of Killa Mohalla Naya Bazar Balmiki Chowk. Aged about 47 years. Mobile number 8607632911. Stated that I am resident of above mentioned address and is labour by profession. That yesterday on dated 08.11.2022 at about 08:30 P.M. in the night, I and Rajat son of Rajbir Singh resident of Killa

Mohalla Tohana along with my brother Sagar came to Balmiki Chowk naya Bazar turn Tohana for purchasing Vegetables and other articles. That my brother Sagar was purchasing vegetables and other articles separately from us and in the meantime on three motorcycles have three riders on each came and at once they opened fire at my brother Sagar and that they fired one shot directly on the lower part of the body (kulla) i.e. hip with an intention to kill my brother Sagar and that I came to know that from those persons, two persons are Sunil alias Dablu son of Krishan resident of Dumkora Road Tohana and Subham alias Lefti son of Takdir resident of Kanheri. That the above said persons have fired upon my brother Sagar with an intention to kill him and sped away from spot on their respective motorcycles. After that, my family members reached on the spot and my brother was lying in pool of blood and was taken to Government Hospital Tohana after arranging vehicle and there doctors on finding my brother serious referred my brother Sagar to MAMC Agroha. That Sunil alias Dablu and Shubam alias Lefti and their companions have fired on my brother Sagar and injured him with an intention to kill him. Action be taken against them. Sd/- Vinod Kumar. Attested ASI Malkit Singh No. 114 PS City Tohana. Dated 09.11.2022.”

3. Learned counsel for the petitioner contends that the petitioner has not been named in the FIR and has been arrayed as an accused on the basis of the disclosure statement made by Sunil Saini alias Dablu. Even as per the story of the prosecution, Sunil Saini @ Dablu and Shubam @ Lefti had fired the shots and the petitioner was shown to be simply present at the place of occurrence. Even no fire arm was recovered from the present petitioner and recovery of a motorcycle, which was allegedly used in the commission of crime, was planted on him. Learned counsel further contends that in the present

case, except the disclosure statement suffered by co-accused, there was no other evidence against him. The petitioner was arrested in the present case on 14.11.2022 and no witness, out of total 28 witnesses, has been examined so far and the prosecution has made every possible effort to delay the trial before the trial Court. He further contends that one more case under Sections 323, 324, 506 and 34 of IPC and Section 42 of Prisons Act was registered against the present petitioner, however, the petitioner is on bail in the said case.

4. On the other hand, learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner. She submits that the petitioner was also part of unlawful assembly, which had opened indiscriminate firing on the deceased.

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

6. The petitioner was arrested in the present case on 14.11.2022 and is in custody for the last more than 01 year and 02 months. Even, he was not named in the FIR and has been named in the disclosure statement suffered by the co-accused. No fire arm was recovered from the petitioner and he was simply shown to be present at the place of occurrence.

7. Without commenting 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, subject to the following conditions:-

(i) *The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with*

the facts of the case, so as to dissuade him to disclose such facts to the Court or to any other authority.

- (ii) The petitioner shall remain present before the Court on the dates fixed for hearing of the case.*
- (iii) The petitioner shall not absent himself from the Court proceedings except on the prior permission of the Court concerned.*
- (iv) The petitioner shall surrender his passport, if any, (if already not surrendered), and in case he is not holder of the same, he shall swear an affidavit to that effect.*
- (v) The petitioner shall also file his affidavit before the concerned Court, mentioning his ordinary place of residence and number of mobile phone, which shall be used by him during the pendency of the trial. In case of change of place of residence/mobile number, he shall share the details with the concerned Court/learned Trial Court.*
- (vi) In case, the petitioner involves in any other criminal activity, during the pendency of the trial, it shall be viewed seriously and the prosecution shall be at liberty to move a petition for cancellation of bail granted to him.*
- (vii) The concerned Court may insist on two heavy local sureties and may also impose any other condition, in accordance with law, while accepting the bail bonds and surety bonds of the petitioner.*

16.01.2024
hemlata

(N.S.SHEKHAWAT)
JUDGE

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