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

Sr. No.216

**CRM-M-35452-2024(O&M)
Date of decision : 09.09.2024**

Nitesh Lamba

..... Petitioner

VERSUS

State of Haryana

..... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Pragyat Bhardwaj, Advocate, for the petitioner.

Mr. Gaurav Bansal, DAG, Haryana.

KIRTI SINGH, J. (Oral)

The jurisdiction of this Court under Section 439 Cr.P.C. has been invoked for grant of regular bail to the petitioner in case FIR No.377 dated 29.09.2023, under Sections 34 & 307 IPC (offences under Sections 325 & 506 IPC were added later on) and Section 25 of the Arms Act 1959, registered at Police Station Ballabhgarh, District Faridabad.

2. The facts in brief of the case are that on 29.09.2023, a medical rukka was received at the Police Station Sadar Ballabhgarh from Life Line Hospital regarding admission of an injury case of Mahesh Nagar. On receiving the information, the police party reached at the hospital, where the injured was found fit for recording his statement to the police and accordingly, injured Mahesh got recorded his statement stating that on 29.09.2023 at about 2:30 p.m., when he along with Prince son of Bhupender were heading towards their village on a motorcycle, a black coloured Baleno car followed them and hit their motorcycle from behind and dragged the motorcycle to a considerable distance. After getting down from the car, the

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assailants hit the complainant on his right hand and leg with a rod and Prince was also hit on his legs with a rod and even shot at with an intention to kill. The complainant identified the assailants as Sonu Mujeri, Dholy Neemka, Lokesh Mujeri and Lamba from Ballabgarh.

3. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in this case and the alleged recovery was not made from the petitioner. He further submits that similarly situated co-accused has been granted the concession of regular bail vide order dated 22.05.2024 (Annexure P4) passed by a Coordinate Bench of this Court in **CRM-M-24831-2024 titled as Lokesh @ Lokesh Kapasiya Vs. State of Haryana.** He further submits that the petitioner has undergone actual custody of 07 months and 28 days and there are 05 other cases registered against the petitioner, however, he is on bail in all those cases.

4. *Per contra*, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner. He states that the petitioner was actively involved in the commission of the offence. He has filed custody certificate in Court today and the same is taken on record. As per custody certificate, the petitioner has undergone actual custody of 07 months and 28 days and is involved in other 05 cases but he is on bail in all cases. He on instructions from ASI-Chanan Ram submits that charges have been framed on 16.07.2024. Out of a total of 19 prosecution witnesses, none has been examined till date. He further submits that the petitioner has been specifically named in the FIR and a pistol was recovered from the petitioner and in view of the serious allegations against the petitioner, he is not entitled

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5. Heard the rival submissions made by learned counsel for the parties.

6. The veracity of the allegations leveled against the petitioner shall be established during the course of the trial. Admittedly, charges have been framed. Out of total of 19 prosecution witnesses, none of the prosecution witness has been examined. The petitioner has undergone an actual custody period of 07 months and 28 days and is involved in 05 other criminal cases, however, he is on bail in all those cases. The co-accused has been granted the concession of regular bail vide order dated 22.05.2024 (Annexure P4). Therefore, this Court is of the considered view that further incarceration of the petitioner will not serve any purpose.

7. As regards the submission of learned State counsel that petitioner is involved in one more criminal case, It has been held by the Hon'ble Supreme Court in **Maulana Mohd. Amir Rashadi Vs. State of U.P. and another, 2012 (2) SCC 382** that the facts and circumstances of the present case are to be seen while deciding a bail application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in another case. The relevant portion of the said judgment is reproduced herein-below:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

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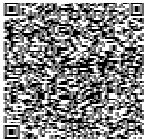
8. Without commenting anything on the merits of the case, lest it may prejudice the trial, the present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing adequate bail/surety bonds to the satisfaction of the concerned learned trial Court/Duty Magistrate. The petitioner shall also abide by the following conditions:-

- (I) The petitioner will not tamper with the evidence during the trial.
- (II) The petitioner will not pressurize/intimidate the prosecution witness(s).
- (III) The petitioner will appear before the trial Court on the date fixed, unless personal presence is exempted.
- (IV) The petitioner shall not commit an offence similar to the offence of which he is accused of, or for commission of which he is suspected.
- (V) 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 from disclosing such facts to the Court or to any police officer or tamper with the evidence.

9. In case of breach of any of the above conditions, the prosecution shall be at liberty to move an application for cancellation of bail before this Court.

10. However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial Court would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

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Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

09.09.2024.

Ramandeep Singh

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No