

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

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CRM -M-36556-2024

Date of Decision : **August 06, 2024**

SANJAY GUPTA

.....Petitioner

VERSUS

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Bipan Ghai, Sr. Advocate assisted by
Mr. Nikhil Ghai, Advocate and
Mr. Ankit Kundu, Advocate
for the petitioner.

Mr. Bhupender Singh, D.A.G., Haryana.

Mr. Rajesh Lamba, Advocate
for the complainant.

KULDEEP TIWARI, J. (Oral)

1. The petitioner, who has been arrested on 25.11.2023, has approached this Court by filing the instant petition under Section 439 Cr.P.C. seeking regular bail in case FIR No.480 dated 24.11.2023, under Sections 307, 459, 325, 506, 397, 120-B, 34 IPC and under Sections 25/54/59 of the Arms Act, registered at Police Station Central District Faridabad.

2. Learned Sr. counsel for the petitioner in the asking for the relief (supra) submits that no role has been assigned to the petitioner in the FIR (supra). He further submits that there is no attribution of any injury to the victim. He draw the attention of this Court towards the FIR, wherein, the

name of the present petitioner has not been figured out in the FIR (supra). Infact the name of the present petitioner has been figured out in a disclosure statement of co-accused Kulwant Chahal, wherein, his role has been assigned, as he was one of the associates with the main accused and was standing outside the door of the house of the victim. The instant FIR has been registered at the behest of one Naresh Mittal. The relevant extract of the same reads as under:-

“To Learned SHO, PS Central, Sector 12, Faridabad. Sir, It is respectfully submitted that I am Naresh Mittal S/o Shri Ashok Mittal R/o House no. 446, Sector 14, Faridabad. I am a property dealer. My father Ashok Mittal aged around 68 years is residing at House No. 928, Sector 15A and we also keep visiting them. My father has kept a girl namely Tulsi W/o Prakash for cleaning purpose and she is working from last 15-16 years. At around 07:10 PM in the evening Deepak Singh S/o Rajbir Singh R/o house no. 158, Kundal Colony called me and informed me that My father has been shot by Kulwant Chahal R/o Sector 15A, who had come along with 3-4 other persons on black cars and entered the house by jumping from the wall. Then he forcefully opened the door and had a fight and then fired a shot. When I and Deepak reached the house then we took our injured father to Metro Hospital, Faridabad. That my father told me that Kulwant Chahal had come along with three persons and had a fight with him and told him that Amrish Chaudhary had given the advance money for land then how could he sell the land to someone else. My father had already told him three years back that he has neither received any money from Amrish nor there is any talk going in this regard. Due to this he fired a shot at my father which hit him in his chest. After firing all four persons ran from the spot on their car one of which was black. A case be registered against Kulwant Chahal and other others for attempt to murder and forcefully entering the house and for threatening to kill. All the persons can be recognized when produced before my father.”

3. The learned State counsel assisted by the learned counsel for the complainant has vociferously opposed the grant of regular bail to the petitioner and submits that infact the petitioner alongwith other co-accused with pre-mediation and after hatching a conspiracy entered the house of the complainant and thereupon, they all in connivance with each other opened gun fire and consequently the victim received injury on his chest. He further submits on instructions imparted to him by SI Jamil Khan, that the final report after completion of investigation was filed way back on 12.2.2024 and thereupon the learned trial Court concerned has framed the charges against the petitioner and other co-accused on dated 15.7.2024. He also informs this Court on instructions that out of total 40 witnesses cited by the prosecution, none has been examined so far. Learned counsel for the complainant also submits that infact they have chosen a day to commit the instant crime when the complainant had received the sale consideration amount and their sole purpose was to commit dacoity and consequently, the prosecution has invoked the penal provisions of Section 397 IPC.

4. This Court has evaluated the rival submissions, as made by the of the learned counsel for the parties concerned and is of the view that the instant petition is liable to be allowed for the following reasons:-

- (a) That the name of the petitioner is not figured in the FIR;
- (b) That the name of the petitioner has been figured in the disclosure statement of co-accused, the probative value of the same is yet to be established by the prosecution during trial;

(c) That there is no allegation that the petitioner has caused gun shot injury to the victim;

(d) That the petitioner has suffered incarceration of about 8 months and 8 days as on today and is not involved in any other case as per the custody certificate, which has been filed today in the Court by the learned State counsel.

5. Considering the above facts and circumstances and also the fact that out of total 40 witnesses cited by the prosecution, none has been examined so far, this Court deems it fit and appropriate to extend the benefit of regular bail to the petitioner. Therefore, the present petition is **allowed**.

6. The petitioner is ordered to be released on bail on furnishing of bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

7. However, anything observed here-in-above shall have no effect on the merits of the case and is meant for deciding the present petition only.

August 06, 2024
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(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No