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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-39973-2024
Date of decision:-16.09.2024

KAMAL ALIAS RANA

Versus

... Petitioner

STATE OF HARYANA

... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. Vikas Bishnoi, Advocate for the petitioner.
Mr. Ramender Singh Chauhan, AAG, Haryana.

SANJIV BERRY, J.(ORAL)

Learned State counsel has filed status report by way of an affidavit dated 12.09.2024 of Deputy Superintendent of Police, Bhuna, Disteict Fatehabad alongwith custody certificate dated 14.09.2024, the same are taken on record, copy thereof, has been supplied to the counsel opposite.

2. The instant petition has been preferred by the petitioner under Section 439 of the Criminal Procedure Code for grant of regular bail in the following case (Annexure P-1):-

FIR No.	Dated	Sections	Police Station
173	29.05.2020	397 IPC and 25 of Arms Act (201 and 120-B IPC added later on)	Bhuna, District, Fatehabad



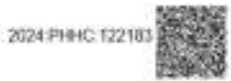
3. It is *inter alia* contended by learned counsel for the petitioner that the petitioner is innocent and has been falsely implicated in this case. He submits that the petitioner was not named in the FIR, his name figured in the disclosure statement of co-accused Satish @ Bullet. He submits that the petitioner is in custody since 29.08.2020 and during course of trial, the sole witness to the alleged incident namely the complainant- Mayank Grover has been examined, who vide his testimony (Annexure P-5) has failed to identify the petitioner to be the person who had committed the crime and was declared hostile. He submits that there is no other witness to the occurrence. Although, the petitioner had 13 cases registered against him, however he had been acquitted in 11 cases while being convicted in 2 cases. He submits that the conclusion of trial will take sufficient long time and the complainant being the sole witness to the occurrence therein turned hostile and not identified the petitioner, no purpose would be served by detaining the petitioner any longer. Hence, he prays for grant of regular bail to the petitioner.

4. Learned State counsel, referring to the reply submitted by the State has not disputed the factual matrix and has contended that petitioner was nominated on the disclosure statement of co-accused Satish @ Bullet on the allegations of having fired a gun shot in the occurrence. However he has not disputed that the complainant being the sole witness to the occurrence had turned hostile as per his testimony (Annexure P-5). He submits that the petitioner had 13 more cases registered against him and being habitual offender, he does not deserve concession of bail.



5. After considering the respective submissions and perusing the record, it is observed that the instant case was registered on the complaint moved by Mayank Grover to the effect that on 29.05.2020 when he reached Gorakhpur canal in his alto car and had parked his vehicle on roadside while answering call of nature, four boys came on motorcycle and asked him to handover keys of car and in the meanwhile one of the person had fired a shot from the pistol and snatched the car key while another person has snatched mobile phone and then they fled away taking his car. During course of investigation, the petitioner was nominated by co-accused Satish @ Bullet and complainant has also identified him vide identification memo dated 03.09.2020. After completion of investigation, challan was presented in Court and during course of trial, the prosecution has examined the complainant as PW-3, in his testimony (Annexure P-5) the complainant had failed to identify the present petitioner to be one of the assailant and turned hostile. It is not disputed that he happens to be the sole witness to the occurrence and pendency of other case is not a ground to deny relief to the petitioner, specially when out of 13 cases he has been acquitted in 11 cases. Considering the fact that the complainant being the sole witness to the occurrence had turned hostile and petitioner is in custody since 29.08.2020 and conclusion of trial will take sufficient long time to ascertain criminal liability, if any, of the petitioner, no purpose would be served by detaining the petitioner any longer in custody.

6. Resultantly, the present petition is allowed. The petitioner is ordered to be released on regular bail subject to furnishing bail bonds/surety



bonds to the satisfaction of learned Trial Court concerned, if not required in any other case; undertaking to regularly appear on each and every date; not to leave the country without prior permission of the Court; and not to tamper with evidence of prosecution in any manner.

7. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

(SANJIV BERRY)
JUDGE

16.09.2024
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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |