



CRM-M-40295-2024

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-40295-2024
Date of decision: 26th September, 2024

Dharambir Singh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Jitender Dhanda, Advocate for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J (ORAL):-

The present petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') by the petitioner seeking grant of regular bail in case bearing FIR No. 171 dated 08.08.2023 registered under Sections 307, 506 and 341 of IPC, 1860 and Sections 25, 25-A, 27 and 30 of Arms Act, 1985 at Police Station Jhojhu Kalan, District Charkhi Dadri.

2. Adumbrated facts as emanating from the record are that the complainant Nafe Singh lodged a complaint alleging therein that on 07.08.2023, on receiving an information that his cousin brother Satish Kumar had been shot at by some persons who came in a vehicle, the complainant rushed towards the place of occurrence and came to know that the victim Satish along with his friends Vinod and Atul was going towards



his house, when three youths driving in a vehicle make Thar bearing registration No. HR-26FA-1061, were going towards Peer Baba Mosque side. The driver moved the vehicle towards Satish and his friends and stopped the same. Three youths after alighting from the vehicle, proclaimed that they would kill Satish. Two of them were having firearms. When Satish and his companions asked them the reason for doing so, they at once started firing shots with their weapons towards Satish with an intent to kill him. On rescue alarm being raised, the assailants fled in their vehicle while leaving their weapons at spot. After registration of FIR, investigation proceedings were initiated. The accused Harender @ Chiky was arrested on 26.08.2023. On interrogation, he suffered disclosure statement admitting his involvement in the subject crime and disclosed the names of other assailants as Sanjay and Nitin. The accused Sanjay and Nitin were arrested on 27.05.2024. He too suffered disclosure statement admitting his complicity in the subject crime and further disclosed that the rifle he was carrying at the time of occurrence had been borrowed by him from the present petitioner who was his friend and apart from that he had borrowed two more pistols and ten cartridges from one Ranjit. On the basis of disclosure statement, the present petitioner was also nominated as an accused. He was arrested on 15.06.2024. He admitted that his licenced double barrel gun and cartridges had been given to the co-accused Sanjay. He got recovered the licence of the gun. Investigation has since been completed. The petitioner had moved an application for grant of regular bail which was dismissed by the learned Sessions Judge, Charkhi Dadri vide order dated 18.07.2024.



3. The present petition has been filed by the petitioner on the grounds and it has been argued by his counsel that the only allegation that has been levelled against him was that he had handed over his licenced rifle/gun to the co-accused Sanjay who had used the same in commission of the subject offence. It is, however, submitted that the petitioner had never given his licenced weapon to anyone, rather the same had been lost and a DDR dated 05.08.2023 (Annexure P-1) was lodged by him reporting loss of the same, whereas the occurrence had taken place on 08.08.2023. No injury had been inflicted upon the victim by the said weapon. His custodial interrogation is no more required. Trial is likely to take time. Subject offences have not been made out against him. Therefore, it is argued that the petition deserves to be allowed.

4. Status report has been filed by the respondent-State. It is argued by respondent-State that he had handed over his rifle/gun to the co-accused obviously with knowledge that the same could be used by him. Therefore, his complicity in the crime was established and hence, it is urged that he does not deserve to be given benefit of bail.

5. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record carefully.

6. The part alleged to be played by the petitioner is that he had handed over his licenced weapon to the co-accused Sanjay and the latter had used the same at the time of occurrence. However, the petitioner has placed on record Annexure P-1 which is copy of DDR No. 735784/2023 got entered



on 05.08.2023 on the basis of complaint filed by the petitioner regarding loss of his .12 bore gun. The petitioner is in custody since 15.06.2024. His custodial interrogation is no more required. No recovery is to be effected from him. It is well settled proposition of law that bail is the rule and jail is an exception. Keeping in view the nature of allegations as levelled against the petitioner, period of his incarceration and the attendant facts and circumstances of the case but without meaning to make any comment on the merits thereof, I am of the considered opinion that the petition deserves to be allowed. Hence, the same is allowed and the petitioner is ordered to be released on bail subject to his furnishing personal/surety bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

7. Since the main petition has been allowed, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

26th September, 2024
Parveen Sharma

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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |