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

**CRM-M-48094-2023
Date of Decision: 25.09.2024**

Balram Gill

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Ms. Harmeet Kaur Chanan, Advocate for the petitioner.

Mr. Rajiv Verma, DAG, Punjab.

Mr. Samuel Gill, Advocate for the complainant.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present is a third petition filed under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail to the petitioner in case bearing FIR No.152 dated 23.10.2020, under Sections 302, 307, 148 & 149 IPC and Sections 25 & 27 of the Arms Act registered at Police Station C-Division, District Amritsar.

2. Learned counsel for the petitioner submitted that the petitioner is in custody from past 3 years, 10 months and 28 days and only 6 prosecution witnesses have been examined despite the fact that the charges were framed on 21.05.2022. She further submitted that as per the prosecution story, the petitioner along with his brother and some other co-accused had come outside the church in an Innova car and they started firing from the double barrel gun and consequently, one person had died. She submitted that so far as the role attributable to the petitioner is concerned, he had shot at a person, namely,

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Manoj, who got injured and not died and has rather survived and so far as the brother of the petitioner is concerned, he had shot at the deceased, namely, Prince and therefore, the charge of Section 302 IPC would only be attributable to the brother of the petitioner and not the petitioner. She further submitted that even otherwise also the custody of the petitioner is 3 years, 10 months and 28 days and considering his long custody, he may be considered for grant of regular bail.

3. On the other hand, Mr. Rajiv Verma, learned DAG, Punjab submitted that although the custody of the petitioner is 3 years, 10 months and 28 days, but it is a case where the petitioner along with his brother and other co-accused collectively came to the church and started firing on the pastor and other persons with the result that one person died. He further submitted that mere fact from the bullet which was fired by the petitioner, the injured did not die, cannot become a ground for grant of bail because it was a collective effort and a gang was formed by them and it was a premeditated act on their part and considering the gravity of the offence, the petitioner does not deserve the concession of regular bail. While referring to the status report, learned State counsel submitted that the petitioner is involved in as many as 4 more cases and further submitted that the petitioner is a habitual offender and in case he is released on bail then he may not only abscond or flee from justice but may influence the witnesses or may also even repeat the offence and therefore, has vehemently opposed the grant of regular bail to the petitioner.

4. Learned counsel for the complainant has also opposed the grant of regular bail to the petitioner and submitted that mere fact that from the bullet which was fired by the petitioner, the injured had not died, it does not mean



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that the petitioner deserves the concession of bail because it was a collective effort on the part of all the accused with premeditated mind to have killed the deceased and injured.

5. I have heard the learned counsels for the parties.

6. The custody of the petitioner is stated to be 3 years, 10 months and 28 days and as per the learned counsels for the parties, only 6 prosecution witnesses have been examined. A perusal of the FIR and the allegations contained therein and the apprehension which has been expressed by the learned State counsel that in case the petitioner is released on bail, then he may not only flee from justice but may influence the witnesses or may also even repeat the offence, cannot be ignored and carries weight. The mere fact that from the bullet of the petitioner, the person, who was injured did not die also itself cannot become a ground for grant of regular bail. This Court is of the considered view that without observing anything on the merits of the case and considering the extreme gravity and seriousness of the offence and the apprehension expressed by the learned State Counsel, the petitioner does not deserve the grant of regular bail.

7. Consequently, finding no merit in the present petition, the same is hereby dismissed.

8. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of present petition.

25.09.2024

*Bhumika***(JASGURPREET SINGH PURI)**
JUDGE

1. Whether speaking/reasoned
2. Whether reportable:

Yes/No
Yes/No