

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

CRM-M-49506-2022

Date of Decision: 28.02.2024

Krishan @ Kishan @ Denny

...Petitioner

vs.

State of Haryana

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. Manish Soni, Advocate
for the petitioner.

Ms. Sheenu Sura, DAG, Haryana.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the instant petition under Section 439 of the Cr.P.C. with a prayer to grant regular bail in case FIR No.27 dated 17.01.2022 registered under Sections 302, 379-B, 201, 34 of IPC, Section 27 of Arms Act, 1959 and Section 3 of SC/ST Act, at Police Station Model Town, District Rewari.

2. Learned counsel for the petitioner contends that the FIR was initially registered against unknown persons. later on, the petitioner and Liyon @ Little, co-accused were falsely involved in the present case only on the basis of the suspicion. Learned counsel further contends that after his arrest, Voter ID Card of deceased and school fee receipt were planted on the present petitioner as the petitioner had no reason to retain the same with him. He further contends that in the present case, it has been alleged that Liyon @ Little had fired at the deceased and the petitioner was accompanying with him and no overt act has

been attributed to him. Learned counsel further contends that during the course of trial, PW1-Jaipal, PW2- Narayan and PW3-Bittu son of Rajpal, brother of the deceased have been examined and all the three witnesses did not support the case of the prosecution. Learned counsel further contends that the petitioner was arrested in the present case on 19.01.2022 and is in custody since then.

3. On the other hand, learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner on the ground that the petitioner is a habitual offender and is involved in five more cases. She further submits that even though, the petitioner was arrested on 19.01.2022 and has undergone 01 year, 4 months and 9 days of custody in the present case. Learned State counsel further submits that the weapon of offence, which was used by Liyon @ Little, co-accused, was recovered from the present petitioner and as per FSL report, the said weapon of offence was used in the commission of crime. Thus, the active participation of the petitioner stood proved in the commission of crime and the petition is liable to be dismissed by this Court.

5. I have heard the learned counsel for the parties and perused the record.

6. The petitioner was arrested in the present case on 19.01.2022 and is continuing in custody since then. The FIR was initially registered against unknown persons and the petitioner was arrested in the present case only on the basis of the disclosure statement suffered by his co-accused Liyon @ Little. Even otherwise, as per story of the prosecution, the petitioner is stated to be accompanying Liyon @ Little at the time of commission of crime. No doubt 05 more cases have been registered against the present petitioner, but the same does not serve as a ground to deny the concession of bail to the petitioner in the

present case, especially when he has been able to make out a case for grant of bail in the present case. Thus, the petitioner can never be confined in jail for an indefinite period as the Hon'ble Supreme Court in the matter of “**Prabhakar Tewari Vs. State of U.P. and another**”, 2020(1) R.C.R. (Criminal) 831 has held that the pendency of several criminal cases against the accused cannot be the basis to refuse the prayer of bail. Similar observations have been made by the Hon'ble Supreme Court in the matter of “**Maulana Mohd. Amir Rashadi Vs. State of U.P. and another**”, 2012(1) R.C.R. (Criminal) 586.

7. In view of the law laid down by the Hon'ble Supreme Court in the matter of **Prabhakar Tewari's case (Supra)** and **Maulana Mohd. Amir Rashadi's case (Supra)**, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate, concerned, subject to the following conditions:-

(i) 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 to disclose such facts to the Court or to any other authority.

(ii) The petitioner shall remain present before the Court on the dates fixed for hearing of the case.

(iii) The petitioner shall not absent himself from the Court proceedings except on the prior permission of the Court concerned.

(iv) The petitioner shall surrender his passport, if any, (if already not surrendered), and in case he is not holder of the same, he shall swear an affidavit to that effect.

(v) The petitioner shall also file his affidavit before the concerned Court, mentioning his ordinary place of residence and number of

mobile phone, which shall be used by him during the pendency of the trial. In case of change of place of residence/mobile number, he shall share the details with the concerned Court/learned Trial Court.

(vi) In case, the petitioner involves in any other criminal activity, during the pendency of the trial, it shall be viewed seriously.

(vii) The concerned Court may insist on two heavy local sureties and may also impose any other condition, in accordance with law, while accepting the bails bonds and surety bonds of the petitioner.

(viii) The petitioner shall report every 1st and 3rd Monday in English calander month before the concerned SHO till the conclusion of the trial and SHO shall mark his presence by making an entry in the rojnamcha. In case, he does not report on every 1st and 3rd Monday before the concerned SHO, it shall be viewed seriously and the concession granted to him shall be liable to be cancelled and the State of Haryana shall be at liberty to move an appropriate application in this regard.

28.02.2024.
hemlata

(N.S.SHEKHAWAT)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No