

CRM-M No. 55355-2023 1

2024:PHHC:015506

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

209

CRM-M No. 55355-2023
Date of Decision: 05.02.2024

Vijay @ Bhoot @ Vijay Kumar

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Vishwajeet, Advocate for the petitioner.

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR, J.(ORAL)

1. This is a petition filed under Section 439 of Cr.P.C. seeking grant of regular bail to the petitioner in case bearing FIR No. 325 dated 11.12.2019 registered under Sections 148, 149, 307, 435 of Indian Penal Code, 1860 and Section 25 of Arms Act, 1959 at Police Station Cheeka, District Kaithal.

2. Custody certificate dated 04.02.2024 on behalf of respondent-State of Haryana has been filed and the same is taken on record.

3. The present FIR was registered on the allegations that on 01.12.2019 at around 11 P.M, complainant, Neshi and Jasbir were sitting in his fields. Rajesh had nurtured a grudge against the complainant on account of a fight between them. Complainant and Rajesh fell into an argument on phone. In the meantime, some young boys in two cars arrived in his fields and complainant recognised Rajesh Kumar, Vijay @ Bhoot (petitioner herein), Vishal, Gulgul, Rajesh s/o Karmbir, Manjeet, Amit, Raman, Ashok.

The assailants were armed with sharp edged weapons and country made pistols. Gulgul exhorted others to teach the complainant a lesson for the earlier fight. On hearing the same, the complainant and his companion got scared. They try to run away. Gulgul fired a shot on the complainant with intention to kill him but somehow he narrowly escaped and other accused followed them with respective weapons. The complainant and his companion succeeded in running through the fields and as such they escaped from being killed by the assailants. The assailants had set the motorcycle of the complainant ablaze.

4. Learned counsel for the petitioner *inter alia* contends that no specific role or overt act has been attributed to the petitioner and the facts of the case clearly shows that no offence under Section 307 of IPC is made out in the absence of any injury. He further submits that he was initially granted concession of regular bail by the learned trial Court vide order dated 20.03.2020 and he could not appear before the court personally and his application for exemption was declined by the learned trial Court; and without following the procedure prescribed under Section 82 of Cr.PC., he was declared as proclaimed offender and thereafter on 24.02.2023, the petitioner was produced before the trial Court by the Police and since 27.02.2023, the petitioner is behind the bars.

5. Per contra, learned State counsel opposes the prayer for grant of regular bail to the petitioner on the ground that petitioner is a habitual offender and involved in five more cases and earlier also he remained absent and was declared as proclaimed offender.

6. Having heard the learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the

indicates that he has undergone more than 1 year, 2 months and 16 days however his custody in the present case after deduction of undergone period during his conviction in other cases comes out to be 9 months and 26 days. Culpability, if any, would be determined at the time of the trial. Trial of the case is likely to take long time to conclude as only 2 out of 26 prosecution witnesses, have been examined so far. So further incarceration of the petitioner without there being the prospect of the conclusion of trial in near future, would be violative of Article 21 of the Constitution of India.

7. In view of the ratio of law laid down by Hon’ble Supreme Court in *Prabhakar Tiwari Vs. State of UP and Anr.* 2020(1) RCR (Criminal) 831 and *Maulana Mohd. Amir Rashadi Vs. State of U.P. and Others* 2012(2) SCC 382, the involvement of accused in other criminal cases cannot be the sole ground to deny him the concession of bail.

8. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial the present petition is allowed and the petitioner- Vijay @ Bhoot @ Vijay Kumar is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court/Duty Magistrate.

9. Nothing observed hereinabove shall be construed as an expression of opinion of this Court on the merits of the case and the trial Court shall proceed without being prejudiced by the observations of this Court.

05.02.2024
Rajeev (rvs)

(HARPREET SINGH BRAR)
JUDGE

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