

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-55831-2023
Date of decision: 07.03.2024

Neeraj @ Golu.....Petitioner.

Versus

State of Haryana....Respondent.

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY

Present:- Mr. Sachin Bhardwaj, Advocate,
for the petitioner.

Mr. Vishal Malik, DAG, Haryana.

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SANJIV BERRY, J. (ORAL)

1. Status report dated 02.03.2024, filed in the form of affidavit of Deputy Superintendent of Police, Narnaul, District Mahendergarh, (Haryana), along with custody certificate dated 06.03.2024 on behalf of State-respondent, are taken on record. Copies thereof have been supplied to learned counsel for the petitioner.
2. Instant petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR (Annexure P-1). Details of the FIR are as under: -

FIR No.	Dated	Sections	Police Station
160	26.06.2022	147, 149, 285, 427, 436, 506 and 120-B IPC and 302 IPC	Nangal Choudhary, District Mohindergarh

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 contends that the petitioner has no concern whatsoever with the alleged occurrence. The petitioner is in custody since 28.06.2022 and challan in this case has already been presented in the Court. He contends that all the material witnesses have already been examined and the complainant-eye witness, namely Arvind, during his cross-examination as PW-6 has categorically given clean chit to the petitioner and has also referred to his testimony as Annexure P-5.

4. Learned counsel for the petitioner further contends that the other witnesses happen to be the official witnesses who are not the witnesses to the occurrence and as such, he prays for grant of regular bail.

5. *Per contra*, learned State counsel, referring to the reply and also the custody certificate submitted by the State, has not disputed the factual matrix, however, he has admitted that out of 27 witnesses cited by the prosecution 14 witnesses have already been examined including all the material witnesses. He has also not disputed the fact that PW-6, namely Arvind, happens to be the complainant-eye witness to the occurrence and has given clean chit to the petitioner qua his presence at the time of occurrence.

6. Considering the respective arguments and perusing the record, the allegation levelled by the prosecution in the case, on the

statement of the complainant, was that the petitioner had set the liquor shop on fire on the fateful day leading to death of Deepak. PW-6, namely Arvind, happens to be the complainant-eye witness of the occurrence who was working as salesman in the said liquor vend, however, during the course of his testimony vide Annexure P-5, he has not supported the case of the prosecution and turned hostile. Admittedly, as submitted by learned State Counsel, all the material witnesses have been examined and the main witness qua the occurrence connecting the petitioner with the alleged crime, happens to be the complainant-eye witness, namely Arvind, who has since been examined as PW-6, however, lending no support to the case of the prosecution. The criminal liability, if any, of the petitioner can only be ascertained after the conclusion of trial which may take sufficient long time and in these circumstances, as observed, no purpose would be served in keeping the petitioner in custody any longer to face the incarceration till the conclusion of trial. Accordingly, without commenting on the merits of the case, instant petition is allowed and the petitioner is ordered to be released on bail on his furnishing surety bonds/bail bonds to the satisfaction of Trial Court/Duty Magistrate.

7. The petitioner shall give the undertaking that he will not leave the country without prior permission of the Court; will regularly appear before the trial Court on each and every date; in case of some exigency, he will seek prior permission of the concerned Court

qua his exemption to appear on the date fixed and he will not tamper with evidence of prosecution in any manner.

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.

9. Petition stands allowed.

07.03.2024
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(SANJIV BERRY)
JUDGE

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