

CRM-M-57527 of 2023

2024:PHHC:034472

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-57527 of 2023
Date of decision: 11.03.2024

Yogesh @ Kali
.....Petitioner
versus
State of Haryana
.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Ms. Shivani Jaglan, Advocate,
for the petitioner.

Mr. Saurav Mohunta, DAG, Haryana.

NAMIT KUMAR, J.

1. This second petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case FIR No.272 dated 09.05.2022 under Sections 148, 149, 307, 506 IPC and Section 25 of the Arms Act, registered at Police Station Tehsil Camp, District Panipat.
2. Briefly stated, the case of the prosecution is that Mandeep Singh complainant on 08.05.2022 was sleeping with his children and family members on the roof of the house, at about 2:00/3:00 am. the pet dog of the complainant started barking, the complainant woke up and saw that Pardeep @ Golu, Yogesh @ Kali (petitioner), Dheeraj, Amit Kundu and other persons were standing on the back side of the roof and suddenly Amit Kundu opened fire with pistol towards the complainant and Pardeep also attempted to fire but failed to do so. The remaining accused started throwing bricks and stones towards complainant and other family members and threatened to kill them and hence the FIR was registered.

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innocent and has been falsely implicated in the present case. She further submits that it is a case of no injury and present petitioner has no motive to have participated in any manner in the present occurrence and the allegations of the firing have been attributed to other co-accused. She further submitted that no overt act has been attributed to the petitioner or any specific role has been attributed to the petitioner. She further submits that petitioner is in custody since 24.06.2022; investigation is complete and challan has already been presented in the Court. She further submits that co-accused of the petitioner, namely, Mohan @ Monu; Pardeep @ Golu and Dheeraj have already been granted the concession of regular bail by a Co-ordinate Bench of this Court vide orders dated 06.11.2023 and 01.12.2023 passed in CRM-M-31995 of 2023; CRM-M-53584 of 2023 and CRM-M-59242 of 2023. She further submits that out of total 19 prosecution witnesses only one witness has been examined and now the case is fixed for 03.06.2024. Therefore, trial may take a considerable time to conclude. Therefore, no fruitful purpose would be served by detaining the petitioner behind bars.

4. *Per contra*, learned State counsel while placing on record the custody certificate dated 08.03.2024 has opposed the prayer for grant of regular bail to the petitioner. He further submits that petitioner is an habitual offender as he is involved in two more criminal cases, therefore, he does not deserve the concession of regular bail. However, he has not disputed that petitioner is in custody since 24.06.2022; investigation is complete; challan has been presented; out of total 19 prosecution witnesses only one witness has been examined till date and abovesaid co-accused of the petitioner have been granted the concession of regular bail by a Co-ordinate Bench of this Court and the petitioner is at parity with them.

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5. Refuting the above contention of the learned State counsel, learned counsel for the petitioner contends that petitioner is on bail in both the above-said cases. Learned counsel, relying upon the judgment of Hon'ble Supreme Court in ***Maulana Mohd. Amir Rashadi Vs. State of U.P. and another, 2012 (2) SCC 382***, contended that the facts and circumstances of the present case are to be seen while deciding a bail application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in other cases. The relevant portion of the said judgment is reproduced hereinbelow:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

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

7. Keeping in view the custody of the petitioner, which is about 01 year and 08 months; co-accused, namely, Mohan @ Monu; Pardeep @ Golu and Dheeraj have already been granted the concession of regular bail; investigation is complete; challan has been presented; charges have been framed and out of 19 witnesses, only one prosecution witnesses has been examined; petitioner is already on bail in other two cases and trial is likely to take a considerable time, however, without commenting upon the merits of the case, the petitioner 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.

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8. The petition stands disposed off accordingly.

11.03.2024
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No