

CRM-M-60771-2022

2024:PHHC:042369

-1-

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

206

CRM-M-60771-2022

Date of Decision : January 29, 2024

Subham Garg @ Shubham Garg

.....Petitioner

VERSUS

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. J.S.Thind, Advocate
for the petitioner.

Mr. Abhinash Jain, DAG, Haryana.

KULDEEP TIWARI, J.

1. Through the instant petition filed under Section 439 Cr.P.C. the petitioner prays for grant of regular bail in case FIR No.405 dated 8.8.2021, Under Sections 147, 148, 149, 302 IPC and under Section 25 of the Arms Act (Sections 147, 148, 149 IPC deleted and Sections 120B, 212, 34 IPC added later on), registered at Police Station Hisar City, District Hisar.

2. The instant FIR has been registered on the statement of Rohtash son of Lakhmi Chand, wherein, he has stated that his son Jony (deceased) was working as water pump operator in HAU on contract basis. On 7.8.2021 at around 9.30 p.m. after having dinner, he went to park for a walk and after some time he saw that his son Jony and one Sony son of Om Parkash also came near the gate of the park and started

talking with each other. At around 9.50 p.m. Mitanshu @ Manni son of Vicky, Arjun son of Rama, Shubham son of Subhash (present petitioner) and two other boys, came towards Jony and Sonu, and suddenly opened fire at his son Jony. His son Jony started running towards the house of Sunny to save his life. However, they chased his son and kept on firing towards him. Two other unknown boys were also with them, Jony entered the house of Sunny and Sonu ran towards the park. After seeing that the people started gathering and seeing the people gathering, all the assailants ran away from the spot. Thereafter, the complainant alongwith the help of other persons brought his injured son from the house of Sonu and took him to the hospital, however, he succumbed to the gun shots injuries.

3. Initially the petitioner was not arrested, as he was escaping from the clutches of law and was finally arrested after the great efforts of the police on 18.4.2022.

4. In the asking for the relief of regular bail, the learned counsel for the petitioner submits that though the petitioner was named in the FIR, however, he was not involved in the present incident as he was not known by the name of Subham son of Subash, rather he is Subham Garg @ Subham Garg son of Vijay Garg. He further submits that the statement of eye-witness Sonu, was recorded under Section 164 Cr.P.C., who did not name the present petitioner in his statement, to be one of the assailants. He further submits that in the final report filed by the prosecution, the only allegation against the present petitioner is that he is the conspirator in the commission of the crime and was not present at the

spot.

5. This Court has gone through the petition, as filed by the present petitioner, the allegation as levelled against him, by the complainant and other co-accused and also the status report filed by way of affidavit of Deputy Superintendent of Police, Detective, Hisar and is of the view that the present petitioner does not deserve to be released on regular bail, for the reason that he has been specifically named as one of the assailants, who opened indiscriminate fire shots upon the deceased Jony. The plea, as raised by the learned counsel for the petitioner, is still required to be considered after adduction of evidence by the prosecution.

6. Considering the gravity of the offence and the role of the present petitioner, the instant petition is ordered to be **dismissed**.

7. However, anything observed here-in-above shall have no effect on the merits of the case and is meant for deciding the present petition only.

January 29, 2024
ajay-1

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No