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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-62855-2023 (O&M)
Date of Decision:- 27.05.2024

NAVEEN @ BHANDER

Versus

....Petitioner(s)

STATE OF HARYANA

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJIV BERRY

Present : Mr. Vishal Sharda, Advocate for the petitioner.
Mr. Surender Singh, AAG Haryana.

SANJIV BERRY, J. (ORAL)

The instant petition has been preferred by the petitioner under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in the following case:-

FIR No.	Dated	Sections	Police Station
478	26.10.2021	307 and 34 IPC; 25 and 27 of the Arms Act, 1959	Rohtak Sadar, District Rohtak

2. It is, *inter alia*, contended by learned counsel for the petitioner that the petitioner is innocent and has been falsely implicated in the case. He submits that during the course of trial, the prosecution has examined all the material witnesses including the complainant/injured and eye-witnesses, who have not lent any support to the case of the prosecution and have given clean chit to the petitioner. He contends that the prosecution will take



sufficient long time for examining the other witnesses, who are formal in nature, being the official witnesses. He prays that the petitioner, who is in custody since 30.03.2022, may be granted the concession of bail.

3. *Per contra*, learned State counsel while referring to the reply submitted by the State has opposed the bail petition considering the nature and gravity of offence and prayed for its dismissal. He has, however, admitted that the prosecution has examined 5 witnesses out of 28 cited, including the complainant/injured Vishal as PW-1 and eye-witnesses Mintu and Shiv Kumar as PW-2 and PW-3 respectively, who have not lent any support to the case of the prosecution against the petitioner.

4. Heard.

5. After considering the respective submissions and perusing the record, it transpires that the instant case was registered on the complaint moved by the complainant/Vishal @ Vishu alleging that on 26.10.2021 at about 04:30 PM, when he, along with Shiv Kumar @ Rohit, was going towards bus-stand on his motorcycle, Naveen @ Bhandar (petitioner herein) along with another boy, who had muffled his face, came on a motorcycle from behind. The petitioner, who was the pillion rider, fired a shot on the complainant with intent to kill him. Thereafter, the assailants ran away from the spot. The brother of the complainant namely Mintu came to the spot and shifted him to the hospital. Accordingly, the present FIR was registered and the petitioner was later arrested in this case.

6. After the completion of investigation, challan was presented in the Court and during the course of trial, the prosecution has examined 5



witnesses out of 28 cited by it including the material witnesses namely PW1-Vishal, who happens to be the complainant/injured; PW2-Mintu and PW3-Shiv Kumar, who happen to be witnesses of the occurrence. Admittedly, all the three material witnesses to the occurrence, connecting the petitioner with the alleged crime, have turned hostile and have not uttered anything against the present petitioner. The prosecution is yet to examine 23 witnesses, who happen to be official witnesses and their examination will take sufficient long time. The petitioner being in custody since 30.03.2022, cannot be left to incarcerate in judicial custody any longer.

7. In these circumstances, without commenting on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court/Duty Magistrate concerned, if not required in any other case; undertaking to regularly appear on each and every date; not to leave the country without prior permission of the Court; and not to tamper with evidence of prosecution in any manner.

8. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

9. Pending miscellaneous application(s), if any, stand disposed of.

(SANJIV BERRY)
JUDGE

27.05.2024
S.Sharma(syr)

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