

by him, all the four boys fled away from the spot on their motorcycle. Thereafter, he shifted his uncle Rohtash to Civil Hospital, Safidon after arranging conveyance. His family members also came there. Due to the injuries, his uncle was referred to PGIMS, Rohtak. Thereafter, they shifted him (Rohtash) to PGIMS, Rohtak. The entire incident is recorded in CCTV Camera installed in their shop. Legal action be taken against the four unknown boys.

During investigation, Section 394 of IPC was added and Sections 384, 34 of the IPC were deleted. On 19.01.2021, accused Sunil alias Sushil alias Shilu and Happy son of Ramesh (applicant/accused) were arrested and they made disclosure statements. On 07.04.2021, accused Himanshu alias Rubal was arrested and he made disclosure statement. On 03.08.2021, accused Deepak alias Bhanja was arrested and he made disclosure statement.”

3. Learned counsel for the petitioner *inter alia* contends that the petitioner is not named in the FIR and the same was lodged against four persons. The injury attracting the offence under Section 307 of IPC is not attributed to the present petitioner and similarly situated co-accused namely Happy and Deepak have already been granted regular bail by this Court in case bearing CRM-M Nos.30101 of 2022 and 8733 of 2023 respectively. The complainant-Sumit (PW2) as well as the injured witness-Rohtash (PW3) have not supported the case of the prosecution and they have been declared hostile. The petitioner is behind the bars since 19.01.2021. As such, petitioner has undergone custody of more than 03 years and the trial of the case is progressing at snail's pace.

4. Per contra, the learned State counsel, on instructions from SI Kulwant Singh, opposes the prayer of grant of regular bail to the petitioner, on the ground that the investigating agency has sufficient material to indicate the complicity of the petitioner apart from the testimonies of PW2 and PW3 and he is a habitual offender and involved in 05 more cases. As such, he does not

deserve the concession of regular bail.

5. Having heard the learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars since 19.01.2021 and the trial of the case has not even reached half way mark as out of 31 witnesses cited by the prosecution, 07 prosecution witnesses have been examined so far. Similarly situated co-accused have also been granted regular bail by this Court. Culpability, if any, would be determined at the time of the trial. No useful purpose would be served by further detention of the accused-petitioner.

6. Keeping in view the law laid down by the Hon’ble Supreme Court of India in ‘*Prabhakar Tewari Vs. State of U.P. and another*’ 2020 (1) R.C.R. (Criminal 831) and ‘*Maulana Mohd. Amir Rashadi Vs. State of U.P. and Another*’, 2012 (2) SCC 382, the involvement of the petitioner in other cases would not be a ground to refuse grant of concession of regular bail.

7. In view the above, the present petition is allowed. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, the petitioner-Sunil @ Sheelu 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.

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

January 12, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

- | | | |
|------|---------------------------|--------|
| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |