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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-65303-2023 (O&M)
Date of decision : 15.05.2024

Yuvraj Thakur @ Mannu

..... Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Rahul Bhargava, Advocate
for the petitioner.

Mr. Mohit Kapoor, Sr. DAG, Punjab.

PANKAJ JAIN, J. (Oral)

1. Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.69 dated 12.05.2023, registered for the offences punishable under Sections 323, 324, 307, 148, 149, 160, 506 of IPC, 1860 and Sections 25, 54 and 59 of the Arms Act (Sections 326, 489-A, 489-B, 489-C and 489-D of IPC, 1860 added later on) at Police Station Division No.7, District Jalandhar.

2. As per the contents of the FIR, it has been alleged as under:-

“Statement of Ajay Kumar alias Ballu son of Narinder Pal Resident of House No. 650/4, Fagu Mohalla Garha Police Station Division No. 7 Commissionerate Jalandhar Aged about 36 Years, Mobile No. 86997-75291. have stated that I am a resident of the said address and I work in a garment shop at Garha. On 12-05-2023, around 2 o'clock in the

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night, I was sleeping at the house of Prema Bhalwan resident of Arya Samaj Garha, Jalandhar. The outer gate of Prema Bhalwan was knocked and I saw from upstairs that Robin Atwal alias Lali son of Vijay Kumar resident of House No. 4 Phaghwari Mohalla, Garha, Jalandhar, in whose hand iron sword was there. Dinesh Kumar alias Vasu son of Vijay Kumar resident of House No. 69, Mohalla Eidgah Garha Jalandhar was holding iron sword, Yogesh alias Geshi son of Prem Nath resident of House No. 275, Cantt. Road, Phaghwari Mohalla Garha Jalandhar was holding iron sword, Sanjeev Atwal alias Golo son of Ravi Parkash resident of House No. 4 Phaghwari Mohalla Garha Jalandhar was holding iron sword in his hand, Aman Kumar alias Aman son of Satpal resident of Eidgah Mohalla Garha Jalandhar was holding iron sword, Utsav alias Vadda son of Santosh resident of House No. 286, Golden Avenue Phase-2 Jalandhar was holding iron sword in his hand, Sahil Atwal alias Kali son of Ravi Parkash resident of House No. 4. Phaghwari Mohalla, Garha. Jalandhar was holding iron sword, Gaurav alias Vicky son of Inderjit Singh resident of House No. 298, Phaghwari Mohalla, Garha, Jalandhar was holding iron sword, Yuvraj Thakur son of Anil Thakur resident of L.I.G. Flat Urban Estate Phase-1 Garha Jalandhar was holding a pistol in his hand including 15-20 unknown persons were standing in front of the gate, breaking the gate and were challenging that" Come out, you will not be spared today. Everyone will be shot." Then I called the boys from my neighborhood. Who then challenging stepped aside from the gate. Then I and

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Prema Bhalwan opened the gate of the house and we both came out. We came out and saw that everyone was standing at the Labor Colony turn, then at that time Yuvraj Thakur fired the pistol in his hand. Which hit my left foot. I fell as soon as the bullet hit my foot and l'rema Bhalwan picked me up and took me to his house. After which all of them threw bricks, pebbles and empty liquor bottles at our gate. On which Prema Bhalwan pelted bricks and stones from the top of his house to save themselves. Hearing the noise of the said attack, the residents of our neighborhood came out. On which all perperators alongwith their weapons ran away from the scene. After which I was admitted to Johal Hospital Jalandhar by Prema Bhalwan in an injured condition. Where Dr Sahib ji treated me and issued MLR which I am still undergoing treatment at Johal Hospital. The reason for the resentment is that we had a fight with them before, keeping that in mind, they allegedly attacked us. These persons attacked with the intention of killing me. Please take strict legal action against them and give me justice. The statement has been written and heard.xxx”

3. Counsel for the petitioner submits that as per the FIR, the allegations against the petitioner is of having fired a shot on the foot of the victim i.e. on non-vital part. Challan stands presented.

4. Bail plea is opposed by the counsel representing the State, who submits that the petitioner has criminal antecedents and is facing 06 more FIRs.

5. Faced with the situation, counsel for the petitioner relies upon following observations made by Supreme Court in the case of '**Prabhakar**

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Tiwari vs. State of U.P.' reported as (2020) 1 RCR (Cri.) 831:-

“6. In the case of [Mahipal Vs. Rajesh Kumar @ Polia & Anr. \(Criminal Appeal No.1843](#) of 2019) decided on 5 th December, 2019, a coordinate Bench of this Court has discussed the scope of jurisdiction of the appellate Court in setting aside an order of granting bail. The two key factors for interfering with such an order are non-application of mind on the part of the Court granting bail or the opinion of the Court in granting bail is not borne out from a prima facie view of the evidence on record. In the case of [Maulana Mohammed Amir Rashadi vs. State of Uttar Pradesh and Another](#) [(2012) 2 SCC 382], a two Judge Bench of this Court declined to interfere with an order of the High Court granting bail to an accused having considered the factual features of that case.

7. On considering the submissions of the learned counsel for the parties. Having regard to the circumstances of this case, in our opinion, there has been no wrong or improper exercise of discretion on the part of the High Court in granting bail to the accused. The factors outlined in the case of [Mahipal](#) (supra) for testing the legality of an order granting bail are absent in the order impugned. The materials available do not justify arriving at the conclusion that the order impugned suffers from non-application of mind or the reason for granting bail is not borne out from a prima-facie view of the evidence on record. The offence alleged no doubt is grave and serious and there are several criminal cases pending against the accused. These factors by themselves cannot be the basis for refusal of prayer for bail. The High Court has

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exercised its discretion in granting bail to the accused Vikram Singh upon considering relevant materials. No ex-facie error in the order has been shown by the appellant which would establish exercise of such discretion to be improper. We accordingly sustain the order of the High Court granting bail. This appeal is dismissed.”

6. Without going into the merits of the case and keeping in view the allegations against the petitioner and the incarceration suffered by him which is more than 10 months and 18 days by now, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.
7. Needless to say nothing recorded herein shall be construed to be an expression of an opinion on the merits of the case.
8. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(PANKAJ JAIN)
JUDGE

15.05.2024
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No