

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-65426-2023

Date of Decision:-28.02.2024

Nityanand @ Neta.

.....Petitioner.

Vs.

State of Haryana.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Pratham Sethi, Advocate &
Mr. Pawan Kumar Garg, Advocate for the Petitioner.

Mr. Kanwar Sanjiv Kumar, Assistant Advocate General,
Haryana.

JASJIT SINGH BEDI, J.(ORAL)

The prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in FIR No.199 dated 03.10.2022 under Sections 302, 34, 120-B, 323 IPC and Sections 25/25-A/54/59 of Arms Act registered at Police Station Bond Kalan, District Charkhi Dadri.

2. The present FIR came to be registered at the instance of Ram Chand son of Sh. Jiwan Lal which reads as under:-

“ To, The Station House Officer Baund Kalan. Sir, It is requested that I Ram Chand son of Jiwan Lal resident of Kasni. I am posted as S.P.O in the police department at Dadri. My brother Dharambir son of Jiwan Lal has a son named Mohit aged about 40 years and three daughters. Mohit was an agriculturist. Today at about 10 to 10:15 AM, Mohit was standing in the street adjacent to his house. Three young boys came with weapons and suddenly they all three opened fire at Mohit. I was coming from the front side. My son Rahul, aged about 28 years was standing there. We that all the

three boys tried to run away on without number splendor plus motorcycle and whoever I tried to stop them and got their motorcycle fallen down. Out of them, I am already known to Naveen resident of Fatehgarh, who have aimed his pistol at me. All the three boys left their motorcycle there and ran away. While stopping them, I have also suffered injury at the left side of my stomach. Then, I made phone call to 112. Out of the above said three persons, I am known to Naveen resident of Fatehgarh and I can identify the remaining 3 persons as and when they will be brought before me. All these three boys are having connections with the Pardeep Kasmi gang Parveen Manda son of Dhoop Singh @ Nasha resident of Kani and Siyatand Nitas of Surender Singh resident of Rams and Pardeep Raast have made plan in the killing of my nephew Mohit. The above said three persons have committed the murder of my nephew Mohit by doing firing and also have indicted injury to me. Strict legal action may kindly be taken against them. Bd. Ram Chander Applicant."

3. During the course of the investigation CCTV footage of the incident was revealed as per which the assailants were Naveen son of Jagat Singh, Kranti son of Sunil Kumar and Ankur @ Bona son of Mahender. The aforementioned accused were arrested and disclosed that a conspiracy had been hatched by Nityanand @ Neta (petitioner) in collusion with Pardeep (not arrested) and one Parveen (discharged).

3. The learned counsel for the petitioner contends that both the material witnesses namely Ram Chand and his son Rahul had been examined as PW-1 and PW-2 respectively. None of them had supported the prosecution case and were declared hostile. As the petitioner was in custody since 11.12.2022 and only 04 of the 26 PWs had been examined so far, the Trial of the present case was not likely to be concluded anytime soon and therefore, he was entitled to the concession of bail

4. The learned Counsel for the State, on the other hand has filed a

reply dated 24.02.2024 by way of affidavit of Mr. Narender Singh, HPS, DSP Charkhi Dadri in the court today, which is taken on record. While referring to the said reply, he contends that the petitioner was one of the conspirators for the murder of the deceased. He was also a history sheeter with as many as 06 other cases pending against him and one case in which he stood convicted. Therefore, he was not entitled to the concession of bail. He however concedes that the petitioner was in custody since since 11.12.2022, only 04 of the 26 prosecution witnesses had been examined so far, out of which two material witnesses have turned hostile.

5. I have heard the learned counsel for the parties at length.

6. Admittedly, two material witnesses in the present case namely PW-1 Ram Chand and PW-2 Rahul have not supported the prosecution case and have turned hostile. Whether the remaining evidence available on record is sufficient to affix liability upon the petitioner and his co-accused shall be adjudicated upon during the course of the Trial. The petitioner is stated to be in custody since 11.12.2022 but only 04 of the 26 prosecution witnesses had been examined so far. Therefore the Trial of the present case is not likely to be concluded anytime soon. In this situation the further incarceration of the petitioner is not required even though he is an accused in other cases.

7. In view of the aforementioned facts, the further incarceration of the petitioner is not required. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, **Nityanand @ Neta** son of Sh. Surender Singh is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

8. The petitioner shall appear on the first Monday of every month before the local police station till the conclusion of the trial and furnish an

affidavit each time that he is not involved in any crime other than the case(s) referred to in this order.

9. In addition, the petitioner shall prepare an FDR in the sum of Rs.2,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from Trial without sufficient cause.

10. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

February 28, 2024
Vinay

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No