

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-65454-2023
Reserved on: 24.01.2024
Pronounced on: 29.1.2024
2024: PHHC: 011204

SUNDER @ KALA

. . . . Petitioner

Vs.

STATE OF HARYANA

. . . . Respondent

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Anshumaan Dalal, Advocate, for the petitioner.

Mr. Parveen Kumar Aggarwal, DAG, Haryana.

DEEPAK GUPTA, J.

By way of this petition filed under Section 439 CrPC, petitioner prays for his release on regular bail in case FIR No.212 dated 15.06.2021 registered at Police Station Nangal Chaudhary, District Mahendergarh, Haryana, under Sections 148 / 149 / 323 / 325 / 307 / 427 / 506 / 120B IPC and Section 25 of the Arms Act.

2. Status report dated 19.01.2024 by way of affidavit of Shri Jitender Kumar, HPS, Deputy Superintendent of Police, Narnaul, District Mahendergarh, has been filed on behalf of the respondent/State.

3. As per prosecution allegations, on the night intervening 12.06.2021, complainant-Surender received a call from his friend Rajesh that two vehicles had come to his house and had fired gun shots. On the asking of the complainant, Rajesh came to him at about 1:30/2:00 AM and narrated the incident. Complainant tried to get the compromise effected by calling the accused. It is alleged that accused Vishal, Sandeep, Deva @

Anil, Rang Lal, Satish @ Chhatishia and 2/3 other persons came in a vehicle and struck their vehicle with the vehicle of the complainant. Accused Vishal fired gun shots on the front glass of the vehicle of the complainant. Remaining assailants also started firing indiscriminately, causing injuries to complainant-Surender as well as his associate Rajesh. The injured were taken to the hospital and two gunshot injuries each were found on the persons of Surender and Rajesh. On the statement of Surender, FIR was registered.

4. During investigation, co-accused/assailants were arrested from time to time. Co-accused Vishal @ Deepak and Satish @ Chhatishia, already confined in District Prison, Bhiwani, were produced in the Court on production warrant and joined the investigation. Co-accused Satish @ Chhatishia has suffered his disclosure statement, as per which he had used a weapon "Doga" in the crime and that the same was retained with Sunder @ Kala (petitioner). Petitioner-Sunder @ Kala, who was confined in jail in some other case, was produced in the Court and joined in the investigation. Petitioner admitted that Satish @ Chhatishia had handed over the weapon to him after commission of the crime and that he had broken the same and threw it in the Ganga river in Haridwar. Thereafter, section 201 IPC was added.

5. Thus, allegations in brief qua the role of the petitioner are that after the commission of crime, Satish @ Chhatishia handed over a weapon "Doga", used in the crime, to the petitioner and that petitioner destroyed the same. Status report also reveals about the criminal antecedents of the petitioner, who is involved in various other cases.

6. It is contended by ld. counsel for the petitioner that there is no attribution to the petitioner to have participated in the crime on the intervening night of 11/12.06.2021; that petitioner was not at all present at the spot nor any injury to any of the injured Surender and Rajesh; or any other overact is attributed to him; and that only role attributed by the police to petitioner is to have destroyed the weapon handed over to him by the co-accused, which is also based upon the disclosure statement, which is not admissible. Ld. counsel contends that criminal antecedents of the petitioner cannot be a reason to keep him detained. Ld. counsel further submits that petitioner is in custody for the last more than 8 months and that trial may take time to conclude and so, he be granted bail.

7. Ld. State counsel has opposed the bail petition on the ground of criminal antecedents of the petitioner and that he had destroyed a weapon used in the crime by the co-accused.

8. Having considered the submissions of both the sides, this court finds that the only role attributed to the petitioner is to have destroyed the weapon used in the crime by co-accused Satish @ Chhatishia. Even that role, as attributed to the petitioner, is based on the disclosure statement of the co-accused and that of the accused, which is yet to be tested during trial, as to whether those statements are admissible in evidence in the absence of any corroborative evidence. Petitioner is in custody for the last 8 months and 9 days as per the custody certificate. Though, he is involved in many other cases as per the custody certificate, but that in itself cannot be a reason to detain the petitioner in the present case having regard to the role attributed to him. Trial may take time to conclude.

9. Having regard to all the aforesaid facts and circumstances, but without commenting anything further on merits of the case, petition is allowed. Petitioner is admitted to regular bail on his furnishing requisite bail bonds and surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned, on usual terms and conditions.

29.01.2024

Vivek

(DEEPAK GUPTA)

JUDGE

1. Whether speaking/reasoned?

2. Whether reportable?

Yes

No