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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-55786-2023

Date of decision:-02.05.2025

DHIRENDER @ AJAY FOJI

... Petitioner

Versus

STATE OF HARYANA

... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. Sahil Chaudhary, Advocate, for the petitioner.

Mr. Vipul Sherwal, AAG, Haryana.

SANJIV BERRY, J.(ORAL)

The instant petition has been preferred by the petitioner under Section 439 of the Criminal Procedure Code, for grant of regular bail in the following case (Annexure P-1):-

FIR No.	Dated	Sections	Police Station
458	23.12.2020	148, 149, 341, 302 IPC and 25 of Arms Act (201 IPC added later on)	Sector 31, Faridabad.

2. Arguments heard.

3. It is *inter alia* contended by learned counsel for the petitioner that the petitioner is innocent and has been falsely implicated in this case. He contends that no specific overt act is attributed to the petitioner and the case of the prosecution is based on unreliable evidence. He contends that the petitioner is in custody since 27.12.2022, after completion of investigation,



challan has already been presented in Court and during the course of trial all the material witnesses have been examined by the prosecution including the complainant, eye-witness etc. who have not lent any support to the case of the prosecution. He has referred to the statement of complainant and other material witnesses annexed with the paper-book to say that virtually it is the case of no evidence against the petitioner which is not improved by examining the other formal official witnesses. He contends that till date 9 witnesses out of 56 witnesses cited by the prosecution have been examined and no material witness remained to be examined. Hence prayed for grant of concession of regular bail to the petitioner.

4. *Per contra*, learned State counsel referring to the reply submitted by the State, has opposed the bail application and prayed for its dismissal, however on query he has not denied the fact that all the material witnesses have been examined out of the 56 cited by the prosecution, who have not lent any support to the case of the prosecution and were declared hostile.

5. After considering the rival contentions and perusing the record, it transpires that the FIR was registered on the complaint of Hemraj alleging that on 23.12.2020 at about 11:30/12:00 PM he alongwith his brother Manoj had gone to Sharmik Vihar, Sector-30 by-pass road for their personal work, thereafter, Manoj left for his personal work towards Sarai in Scorpio vehicle of his friend. After one hour, Manoj was coming from Delhi side towards Sharmik Vihar in Scorpio vehicle of his friend and behind his vehicle 8-10 unknown persons were following them in Corola and Fortuner and in one



other vehicle and they were firing upon Manoj. Manoj turned his vehicle towards Sharmik Vihar in order to save himself but the assailants had surrounded him near a Dairy after stopping their vehicle in front of vehicle of Manoj and started firing upon Manoj. After killing Manoj the assailants fled away from the spot in their vehicles. Complainant took his brother to the Asian Hospital, where the doctors declared him dead, accordingly FIR was registered.

6. It is evident that the petitioner was arrested in this case on 27.12.2022, since then he is in custody, After completion of investigation, challan has already been presented in Court wherein prosecution has cited 56 witnesses. During course of trial 9 witnesses have been examined by the prosecution till date, which include all the material witnesses including the complainant eye-witnesses etc. Admittedly, all these material witnesses have not lent any support to the case of the prosecution and have denied having witnessed any such occurrence. The material witnesses have since been declared hostile by learned trial Court and the witnesses remained to be examined happen to be formal official witnesses whose testimonies will not improve the version of the prosecution in any manner. The conclusion of trial to ascertain criminal liability, if any, of the petitioner will take sufficient long time. Considering the fact that the complainant and other material witnesses have not uttered anything against the petitioner, no purpose would be served by detaining the petitioner any longer in custody.

7. Resultantly, 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 furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court 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 the evidence of the 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 application(s) if any shall also stand disposed of.

(SANJIV BERRY)
JUDGE

02.05.2025

Gyan

i)
ii)

Whether speaking/reasoned?
Whether reportable?

Yes/No
Yes/No