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PUNJAB AND HARYANA HIGH COURT

Before: Anil Kshetarpal, J.

Criminal Misc. No. M-14180-2020(O&M)

Decided on: 19.06.2020

Kuldeep @ Lila

Petitioner

Versus

State of Haryana

Respondent

Present:

Mr. Baljeet Beniwal, Advocate, for the petitioner.

Mr. Deepak Sabharwal, Addl. A.G. Haryana.

Code of Criminal Procedure, 1973 (2 of 1974), Section 439 -- Indian Penal Code, 1860 (45 of 1860), 307, 285, 506, 147, 149 – Arms Act, 1959 (54 1959), Section 25 – Attempt to murder – Regular bail -- Once the co-accused have already been acquitted and the petitioner is not alleged to have played any active role, it would not be appropriate to further incarcerate the petitioner -- Keeping in view the fact that the petitioner is in custody since 02.10.2019 and conclusion of the trial is likely to take sufficient time, the petitioner is directed to be released on regular bail.

(Para 1, 6, 7)

JUDGMENT

ANIL KSHETARPAL, J. (ORAL) –

1. Present petition has been filed by the petitioner, namely, Kuldeep @ Lila under Section 439 Cr.P.C. for grant of regular bail in FIR No.236, dated 01.10.2015, registered under Sections 307/285/506/147/149 IPC and Section 25 of the Arms Act, registered at Police Station City Narwana, District Jind.

2. The gist of the case of the prosecution has been noticed by the learned Additional Sessions Judge, Jind, in paragraph 2 of the order dated 16.05.2020, which is extracted as under:-

“ Briefs facts of the case are that on 01.10.2015, Retired ASI Rampal received a telephonic message from General Hospital, Narwana regarding admission of Avneet son of Shamsher Singh in the hospital with fire arm injury. He alongwith his staff reached General Hospital, Narwana from where he came to know that Avneet has been referred to PGIMS Rohtak. He received a telephonic call from Shamsher Singh, father of injured who told him that injured was admitted in Sapra Hospital, Hisar. He collected ruqa and MLR from General Hospital, Narwana and reached Sapra Hospital Hisar. He moved an application before Medical Officer who declared patient to be unfit to make statement. Thereafter, ASI Rampal recorded statement of complainant Shamsher Singh son of Bhagwan Singh, resident of Mor Patti, Narwana wherein he stated that he has two sons namely Avneet and Vikram. His daughter was married. His elder son Avneet was living in Hisar and he was studying there. On 30.09.2015, he went to Hisar and when he returned to Narwana with his son Avneet and was going to Mor Pati Narwana at his house on foot, Leela Chopra, Deepi



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Chopra, Mandeep @ Mussi and 4-5 unknown young boys were sitting there. When they reached towards Mor Patti, Leela Chopra, Deepi, Mandeep etc. came from behind and Leela Chopra fired a shot from his pistol upon his son Avneet, which hit him on the right side of his back. After hearing the noise of fire shot Sudhir son of Randhir, Rajbir @ Raju son of Amrit Lal and Pardeep son of Sewa Singh came at the spot and on seeing them, accused Deepi fired a shot in the air. All the accused fled away from the spot along with their respective weapons by firing in the air. While going away, they threatened them. Accused Leela, Deepi, Mandeep etc. fired at Avneet with intention to kill him due to previous grudge of Mor Patti and Chopra Patti. Thereafter, he, Sudhir, Rajbir and Deepu took Avneet to Civil Hospital, Narwana after making arrangement of a private vehicle from where doctor referred Avneet to PGIMS, Rohtak whereas for better treatment. He took his son to Sapra Hospital, Hisar. Upon it above referred FIR was registered. Kuldeep accused was arrested in FIR no. 258 dated 28.10.2015 under Sections 302/216/120-B IPC & 25/54/59 Arms Act P.S. City Narwana & FIR No. 262 dated 29.09.2019 U/s 174-A IPC PS City Narwana. Supplementary challan against him presented in the court on 10.12.2019.”

3. Hearing of the case was held through video conferencing on account of restricted functioning of the Courts.

4. Learned counsel for the petitioner contends that the co-accused of the petitioner have already been acquitted vide judgment dated 22.11.2019. He further submitted that the petitioner is in custody since 02.10.2019. After completion of the investigation, the police has already filed final report under Section 173 of the Code of Criminal Procedure. He further submitted that as per the FIR, no active role is attributed to the petitioner.

5. On the other hand, learned counsel for the State has submitted that the petitioner is a habitual offender.

6. Be that as it may. Once the co-accused of the petitioner have already been acquitted and the petitioner is not alleged to have played any active role, it would not be appropriate to further incarcerate the petitioner.

7. Without commenting on the merits of the case and keeping in view the fact that the petitioner is in custody since 02.10.2019 and conclusion of the trial is likely to take sufficient time, the petitioner is directed to be released on regular bail subject to furnishing of adequate surety to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate, concerned.

8. Accordingly, the present petition is allowed with the aforesaid directions.

Petition allowed.
