

CRM-M-13325-2019

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-13325-2019.

Decided on : September 24, 2019.

Parveen @ Mandhu

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

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**PRESENT Mr.R.S.Rai, Sr. Advocate, assisted by
Mr.Karan Pathak, Advocate,
for the petitioner.**

Mr.Munish Bansal, DAG, Haryana.

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ANIL KSHETARPAL, J. (ORAL)

Petitioner prays for grant of regular bail in FIR No.320, dated 10.8.2016, registered under Sections 147, 148, 149, 302 and 120-B IPC and under Section 25 of the Arms Act, 1956, at Police Station Dadri Sadar, District Bhiwani.

Learned counsel for the petitioner contends that the petitioner has been nominated as an accused on the statement of co-accused and he is in custody since 5.11.2016. In July 2019, trial was started and

although as per the case of the prosecution, petitioner has used a firearm, however, no charge under the Arms Act, has been framed.

Keeping in view the facts of the present case, learned counsel for the State, has sought time to produce opinion from Ballistic expert attached to Forensic Science Laboratory. Today, affidavit of Mr.Joginder Singh, Deputy Superintendent of Police, HQ, Charkhi Dadri, dated 23.9.2019, on behalf of respondent - State, has been filed in which it has been stated as under:-

“2. That during the course of investigation, it was found that accused/petitioner was present at the spot along with co-accused and had fired upon deceased Khilaw Chand. Petitioner Parveen @ Mandhu was brought on production warrant and was arrested in the case on 05.11.2016. Petitioner confessed that he is friend of co-accused Pardeep and Rahul and they hatched a conspiracy to kill Khilaw Chand on asking of accused Pardeep. He further confessed that he along with co-accused when to village Dhani Phogat in a Bolero Camper No.HR99G-B Temp 7885. The 9MM pistol he used in the crime was recovered by Bawani Khera Police along with 5 cartridges in case FIR No.291 dated 2.11.2016 U/S 412/420 IPC and 25 Arms Act PS Bawani Khera. The petitioner further stated that they left the Bolero vehicle at Surheti Mod, Jhajjar. Petitioner identified the place of offence and the place where he left the Bolero Camper vehicle.

3. That during investigation a 9MM pistol and 5 cartridges recovered by Bawani Khera police from the petitioner were taken in police possession in the instant case and the pistol was sent to FSL, Madhuban alongwith other weapons recovered in

the case, for examination. As per FSL, Madhuban report dated 16.09.2019, the pistol was found in working condition. The bullets recovered from the spot were positively found to be fired from 9 MM pistol used by co-accused Pardeep. However, definite opinion could not be formed regarding the linkage of one remaining badly deformed and mutilated 9MM fired bullet with 4 country made 9MM pistols recovered from petitioner and other accused due to lack of comparable individual characteristic marks.”

Learned counsel for the petitioner further contends that petitioner was nominated by Ajay, a co-accused who has already been granted concession of bail by the Court of Sessions.

On the other hand, learned counsel for the State, on instructions from ASI Kuldeep Singh, has admitted that the petitioner is involved in other criminal cases. He refers to FIR No.149 of 2009, under Sections 364 and 120-B IPC, Police Station, Berry. He further draws attention of the Court to FIR No.263 of 2015, under Sections 147, 149, 341, 325 and 506 IPC, Police Station, City Dadri as well as to FIR No.291 dated 2.11.2016, under Sections 420, 412 IPC and under Section 25/54/59 of the Arms Act, Police Station Bawani Khera, Bhiwani.

It is not disputed that in FIR No.149 of 2009, the petitioner has already been acquitted whereas in FIR No.263 of 2015, the petitioner was convicted and sentenced to undergo imprisonment for a period of two years. FIR No.291 dated 2.11.2016, is stated to be pending trial.

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No doubt the petitioner had filed application for the grant of interim bail which was dismissed on 11.12.2018, however, keeping in view the fact that aforesaid bail application was not decided on merits and at that time the opinion of the Ballistic expert was also available, in which it has been stated that no definite opinion can be given, therefore, in the considered view of this Court, the petitioner deserves to be released on regular bail. The petitioner is directed to be released on regular bail subject to furnishing of adequate surety to the satisfaction of the trial Court/Duty Magistrate.

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

(ANIL KSHETARPAL)
JUDGE

September 24, 2019.
raj arora

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