

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

205

**CRM-M-3546-2020
Date of decision: 31.08.2020**

Ankush and another

.....Petitioners

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Vikas P. Singh, Advocate
for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryana
for the respondent-State.

ARUN KUMAR TYAGI, J (ORAL)

(The case has been taken up for hearing through video conferencing.)

Petitioners-**Ankush and Deepak** have filed the present (first) petition under Section 439 of the Code of Criminal Procedure, 1973 (for short, "the Cr.P.C.") for grant of regular bail in case FIR No.217 dated 08.11.2019 registered under Sections 307 and 323 read with Section 34 of the Indian Penal Code, 1860 (for short, "IPC") and Section 25 of the Arms Act, 1959 at Police Station Behal, District Bhiwani.

In the course of hearing of the petition, learned counsel for the petitioners has submitted that Section 120-B of the IPC has been subsequently added in the FIR as reflected by the order dated 03.01.2020 passed by the learned Additional Sessions Judge, Bhiwani but due to inadvertent omission Section 120-B of the IPC could not be mentioned in the petition and the petition may be allowed to be

amended in the interest of justice.

In the facts and circumstances of the case and in the interest of justice, the request is allowed and Section 120-B of the IPC is ordered to be inserted in the head note and prayer of the petition and the registry is directed to carry out the amendments in the petition accordingly.

The above said FIR was registered on statement of Brijmohan who alleged that on 08.11.2019 at about 06:40 P.M. when he was sitting in his shop accused Sanjay came and fired two gun shots consecutively which passed by merely touching him due to which he suffered injuries on his shoulder, chest and other parts of his body. When his workers Ashish, Badri Prasad and Anil tried to catch accused Sanjay he escaped on motorcycle of a young boy who could not be identified.

The petitioners, who are in custody since the date of their arrest, have filed the present petition for grant of regular bail.

The petition has been opposed by the learned State counsel. However, no reply has been filed by the respondent-State.

I have heard learned counsel for the petitioners and learned State counsel and gone through the relevant record.

Learned counsel for the petitioners has submitted that the petitioners have been falsely implicated in the case. The petitioners were not named in the FIR and even the role attributed to them was not mentioned therein. The petitioners have been implicated in the case on the basis of disclosure statement of the co-accused. No recovery was effected from the petitioners. Challan has been filed in the case but the

trial is likely to take long time as the trial is yet to commence. No useful purpose will be served by further detention of the petitioners in custody. Therefore, the petitioners may be granted regular bail.

On the other hand, learned State counsel has submitted that the petitioners along with their co-accused attempted to murder Brijmohan. In view of the gravity of accusation, the petitioners do not deserve grant of regular bail. Therefore, the petition may be dismissed.

In view of the facts and circumstances of the case, nature of accusation, role attributed to the petitioners and the fact that the trial is likely to take long time due to restrictions imposed to prevent the spread of infection of Covid-19 but without commenting on the merits of the case, I am inclined to extend the concession of regular bail to the petitioners.

Therefore, the petition is allowed and petitioners-**Ankush and Deepak** are ordered to be released on regular bail on furnishing of personal and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

However, the petitioners are granted regular bail subject to the condition that they shall not commit any similar offence after their release on bail and in case of commission of any similar offence by them in future their bail in the present case shall also be liable to be cancelled on application to be filed by the prosecution in this regard.

31.08.2020

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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