

CRM-M-15331-2020

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(PROCEEDINGS THROUGH V.C.)

CRM-M-15331-2020

Date of Decision: 01st July, 2020

Monu @ Rahul

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present Mr. Aditya Jain, Advocate
for the petitioner.

Mr. Apoorv Garg, DAG, Haryana.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court for grant of regular bail by filing this petition under Section 439 of the Code of Criminal Procedure, 1973, in FIR No.147, dated 27.02.2019, registered at Police Station Camp Palwal, under Sections 307, 120-B, 148, 149 and 34 of the Indian Penal Code along with Section 25 of the Arms Act, where the petitioner, as per the assertion of the learned counsel for the State, had been arrested on 04.01.2020.

It is the contention of the learned counsel for the petitioner that the petitioner has neither been named in the FIR nor any overt act has been attributed to him except for the allegation that he was standing from where the main accused Ankit had fired from his weapon hitting the complainant Dharambati wife of Dhirender, who was standing in the window. He

contends that the petitioner has been falsely implicated in this case and is in custody for the last about six months. He contends that the challan was presented before the Illaqa Magistrate on 20.01.2020 and since then, because of the prevailing pandemic situation, the case has been adjourned time and again. The next date of hearing now is 01.08.2020 and the trial is not likely to proceed in near future because of the prevalent pandemic situation. Assertion has also been made that no recovery has been effected from the petitioner and therefore, he may be granted the concession of regular bail.

Learned counsel for the State, on the other hand, asserts that although no active role has been attributed to the petitioner but in the light of Section 34 of the Indian Penal Code, petitioner would be liable for each and every act which has been done by the other co-accused. His contention is that the petitioner is an accused in another FIR, which has been registered against him under Section 379 of the Indian Penal Code at Police Station Camp Palwal. He, however, could not dispute the fact that the petitioner has been released on bail in the said case. He, thus, contends that the petitioner is involved in criminal activities and therefore, does not deserve the concession of regular bail especially when the complainant as yet has not been examined.

Having considered the submissions made by the learned counsel for the parties, this Court is of the view that the petitioner deserves the concession of regular bail as prayed for. It is admitted as per the facts that the petitioner has neither been named in the FIR nor has any overt act

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attributed to him except for he being standing along with co-accused Ankit. Recovery in this case has been effected from co-accused Raju and no recovery has been effected from the petitioner. The challan stands presented and the trial is not likely to proceed in near future because of the prevailing situation of the pandemic. The contention of the learned counsel for the State that the complainant has not yet been examined cannot at this stage be said to have much weight because of the fact that after the presentation of the challan on 20.01.2020, no progress has been made in the trial.

In the light of the above, this criminal miscellaneous petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, Palwal.

Any observation made herein-above shall have no bearing on the merits of the case during the trial in any manner.

(AUGUSTINE GEORGE MASIH)
JUDGE

01st July, 2020

Harish

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No