

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

211

CRM-M-12030-2021

Date of Decision : August 25, 2021

BIRENDER

.....Petitioner

VERSUS

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present : Mr. Keshava Pratap Singh, Advocate
for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryana.

Through Video Conferencing

JASGURPREET SINGH PURI. J. (Oral)

The present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 147 dated 27.2.2019 under Sections 307, 120-B, 34 IPC and Section 25 of the Arms Act, Police Station Camp Palwal, District Palwal.

Learned counsel for the petitioner has submitted that in the present case the petitioner was falsely implicated and he was not even named in the FIR and it was only on the basis of disclosure statement of co-accused that the petitioner's name was nominated. He has submitted that the petitioner had no role to play in the present offence, if any, and no recovery was effected from the petitioner and rather the recovery was effected from the other co-accused namely Raju and as per the FIR the accused person who had made a firearm shot was Ankit whose name has been mentioned in the FIR itself but the present petitioner has been

wrongly named in the present case. He has further submitted that the petitioner is in custody since 04.11.2019 which is almost 1 year and 10 months and the investigation of the case is already complete and after the completion of the same challan was presented on 20.01.2020 but no progress in the trial has been made and no prosecution witness has been examined. He has submitted that no recovery is to be made from the petitioner and the trial would take long time and therefore, he may be considered for grant of regular bail. He has submitted that although there is one more case against the petitioner but in that case also the petitioner has been nominated on the basis of a disclosure statement of co-accused and the petitioner is already on bail in the other case. He has also submitted that the similarly situated co-accused namely Monu @ Rahul as well as Lalit @ Laliti have been granted regular bail vide Annexures P-2 and P-3.

On the other hand, Mr. Panwar, learned DAG, Haryana has submitted that so far as the custody period of the petitioner is concerned the same is not in dispute and is also correct that the investigation of the case is complete and no recovery is to be effected from the petitioner but the recovery has been effected from some other co-accused. He has also submitted that it is correct that the challan was presented on 20.01.2020 and thereafter no progress has been made in the trial and no prosecution witness has been examined as of now. However, he has opposed the grant of bail on the ground that the matter was serious in nature.

I have heard learned counsels for the parties.

The custody period of the petitioner is about 1 year and 10

months and the investigation of the case is already complete and challan stands presented but no PWs have been examined as of date. The name of the petitioner does not figure in the FIR but his name has been nominated on the basis of disclosure statement of other co-accused and according to the prosecution nothing has been recovered from the petitioner. Two of the other co-accused have already been released on bail. Furthermore, it is not the case of the State that in case the petitioner is released on bail then he may influence any witness or may tamper with any evidence or may flee from justice.

Therefore, considering the totality of the facts and circumstances of the present case, I deem it fit and proper to grant bail to the petitioner.

Consequently, the present petition is allowed. The petitioner is ordered to be released on bail on furnishing of bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/Duty Magistrate.

However, anything observed here-in-above shall have no effect on the merits of the case and is meant for deciding the present petition only.

August 25, 2021
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(JASGURPREET SINGH PURI)
JUDGE

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