

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

212

CRM-M-21906-2021

Date of Decision : August 10, 2021

ANAND

.....Petitioner

VERSUS

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present : Mr. S.S.Jattan, Advocate
for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryana.

Mr. Jitesh Sharma, Advocate
for the complainant.

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.478 dated 30.6.2019 under Sections 148, 149, 307, 323, 325, 341, 506 IPC and Sections 25, 54 of Arms Act, Police Station Assandh, District Karnal.

This is fourth bail application filed by the petitioner. The first bail application was dismissed as withdrawn on 21.01.2020, the second bail application was again dismissed as withdrawn on 02.12.2020, the third bail application was dismissed as withdrawn on 04.09.2020 vide CRM-M-1774 of 2020, CRM-M-35820 of 2020 and CRM-M-19696 of 2020 respectively.

The learned counsel for the petitioner has submitted that the petitioner is in custody since 03.07.2019 and no material witnesses have been examined till date and challan was presented on 21.09.2019 and, therefore, he is entitled for the grant of regular bail. He has further submitted that the other co-accused, namely, Dinesh has also been granted bail by a coordinate Bench of this Court and since the petitioner is in parity with the other co-accused Dinesh, he may be considered for the grant of regular bail.

On the other hand, Mr. Panwar, learned DAG, Haryana submitted that a bare perusal of the FIR would show that the petitioner was having enmity with the injured, namely, Vikas son of Krishan and on earlier occasion also, he had extended threat to the injured and thereafter on the date of the present incident, he took away the weapon belonging to the co-accused Dinesh and fired at the injured and injuries of bullets were caused on the body of the injured-Vikas and, thereafter MLR was also conducted in which metallic object was also found. The learned State counsel submitted that the State had filed status report in this regard by way of e-mail since the matter is being taken up through Video Conferencing. He submitted while referring to the status report that on 03.07.2019, the petitioner was arrested and during investigation he has suffered his disclosure statement and confessed his involvement in the said crime and as per his disclosure statement, a Car bearing Registration No.HR-33G-2697 Make Tata, used in the quarrel was recovered from the possession of the accused and the same was taken into police possession and again the petitioner suffered disclosure statement on 04.07.2019

before the Investigating Officer and disclosed the name of the other co-accused, namely, Tony, Dinesh @ Samra, Badal, Mintu, Vikas and Gurmail, who were also involved along with him in the said incident and has also disclosed about firing bullet shot to Vikas son of Krishan with the licensed gun of Dinesh. The car used at the time of incident was also recovered from him. While referring to the Medical Report of the injured, the learned State counsel has referred to para No.5 of the affidavit in which it is stated that opinion was sought from the doctor regarding injuries caused to the injured-Vikas in which it was opined that as per the FSL report dated 03.02.2020, one hole on the underwear/kacha contained in parcel has been caused by lead/bullet projectile. Gunshot discharge residues is lead was detected from the swab. The patient took treatment from the private hospital Shri Hari Hospital, Karnal and as per the case summary of Shri Hari Hospital, Karnal dated 01.07.2019 shows a metallic object in obturator foramen left side and metallic object was removed under Anesthesia and as per CT scan, report of goodhopes SN 02530619 dated 30.06.2019 show. Approximately 15X8 mm sized metallic density foreign body/bullet in left obturator internus muscle with significant metallic artefact. Multiple tiny metallic foreign bodies in left obturator externus and pectineus muscle. Discharge summary show fracture 4th metacarpal of left hand. So, injury No.1 is dangerous to life. Injury No.2 grievous in nature. The learned State counsel has further referred to para No. 8 of the present petition wherein it has been stated that the petitioner is involved in 15 other FIRs. He submitted that although in some of the FIRs, he has been convicted but in some of the

other FIRs, he has also been acquitted but the fact remains that the petitioner is a habitual offender and there is a likelihood that in case he is released on bail then he may influence the witnesses and tamper with the evidence or he may even flee from justice as there are grave allegations against the petitioner as he committed the murder of the complainant with fire arms and other weapons while accompanying with the other co-accused. He further submitted that the material witnesses are yet to be examined and even as per the affidavit filed by the police, there is every apprehension that in case he is enlarged on bail, he might influence the prosecution witness and abscond from the process of law and, therefore, oppose the grant of bail.

I have heard learned counsels for the parties.

The present petition is fourth bail application and the petitioner has not been able to show any ground for maintaining the fourth consecutive bail application in the absence of any changed circumstance. The argument raised by learned counsel for the petitioner that the co-accused has been granted bail would constitute a changed circumstance would not carry weight in view of the fact that in the present case the petitioner is not at parity with the other co-accused- Dinesh. A perusal of the FIR and the investigation process would show that the petitioner was the main accused who had allegedly fired from a pistol and although the said pistol belonged to the other co-accused Dinesh but the totality of circumstances would show that the petitioner is not at parity with the other co-accused, namely, Dinesh. Apart from this, the petitioner was also involved in 15 other cases although he may have

been acquitted in some of the cases.

The stand taken by learned State counsel that in view of the seriousness of the case and the antecedents of the petitioner and in view of the fact that material witnesses are yet to be examined and in case the petitioner is released on bail then he may influence the material witnesses and tamper with the evidence or he may even flee from justice does carry some weight. The argument of learned counsel for the petitioner that during investigation, five of the accused have been found to be innocent and the recovery of the pistol was not from the petitioner but from the other co-accused Dinesh would not carry any weight in view of the fact that the perusal of the FIR would show that direct allegations have been attributable to the petitioner that he had fired the gun shot by taking the pistol from the co-accused Dinesh.

Therefore, considering the totality of circumstances of the present case, I do not deem it fit and proper to grant bail to the petitioner. Consequently, the present petition is hereby dismissed.

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.

(JASGURPREET SINGH PURI)
JUDGE

August 10, 2021
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Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No