

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-27764-2021(O&M)

Date of decision : 16.12.2021

Jagdeep alias Jagga

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Balvinder Sangwan, Advocate
for the petitioner.

Mr.Praveen Bhadu, AAG, Haryana.

VIKAS BAHL, J.(ORAL)

CRM-42666-2021 & CRM-42847-2021

Allowed as prayed for. Annexures P-8 to P-10 and Annexure P-11 are taken on record, subject to all just exceptions.

CRM-M-27764-2021

This is a first petition under Section 439 Cr.P.C. read with Section 482 Cr.P.C. for grant of regular bail to the petitioner in FIR no.207 dated 09.10.2021 registered under Sections 186, 332, 353, 186 and 307 IPC and Sections 25/54/59 of the Arms Act at Police Station Pataudi, Gurugram.

Learned counsel for the petitioner has submitted that as per the FIR, no specific injury has been attributed to the petitioner. It is further submitted that two co-accused of the petitioner namely Raj Kumar and

been granted regular bail by the Additional Sessions Judge, Gurugram vide orders dated 18.02.2020 and 13.02.2020 (Annexures P-4 and P-5) respectively. It is argued that the case of the petitioner is on a similar footing than that of the two co-accused and the custody of the petitioner is much more than that of two co-accused inasmuch as the petitioner has been in custody since 15.11.2018. It is further argued that PW-2 Giriraj Singh (Annexure P-3) in his cross-examination had stated that no empty cartridge was found at the spot and there was no tyre mark or any other evidence suggestive of violence at the spot. It is also submitted that with respect to the alleged injury suffered by the two persons in the FIR, a reference has been made to MLR (Annexure P-9) as per which Constable Ram Mehar had been examined at 5.20 AM on 09.10.2012, although, the incident was of 08.10.2012 at 11.20 PM and it was stated that there was an abrasion over the middle finger of the left hand only and said injury has been declared to be simple in nature. Further with respect to second injured, i.e. Inspector Sudeep Singh, a reference has been made to MLR (Annexure P-8), as per which it was submitted that there was bleeding on the left index finger and although the said injury has been declared to be grievous but the same is on a non-vital part of the body and it has not been specifically attributed to the petitioner. It is further stated that out of 30 prosecution witnesses, only two witnesses have been examined and the trial is likely to take time moreso, in view of the present pandemic.

Learned State counsel has opposed the present petition for regular bail and has submitted that as per prosecution version, the petitioner along with other co-accused including Raj Kumar and Sumesh had started firing on the police party on account of which injury on the left index finger

was suffered by Inspector Sudeep Singh and also, the vehicle in which the petitioner along with co-accused tried to run away, had hit the official vehicle injuring Constable Ram Mehar. It is further submitted that the petitioner is involved in other cases including two cases under Section 302 IPC and one case under Section 307 IPC. However, as far as the period of custody and nature of injuries is concerned, the State has not rebutted the averments made by learned counsel for the petitioner.

Learned counsel for the petitioner, in rebuttal, has submitted that as far as FIR no.666 dated 29.12.2015 under Section 302 IPC is concerned, the petitioner has already been acquitted vide judgment dated 13.05.2019 and as far as the FIR no.387 dated 21.07.2012 under Section 302 IPC is concerned, the petitioner has been granted regular bail vide order dated 20.04.2021 passed by the Additional Sessions Judge, Faridabad, (Annexure P-7) and has stated that the petitioner was involved in the said case in the year 2018, i.e. after 6 years of the registration of the FIR and his name had come up on the basis of disclosure statement of co-accused, i.e. Krishan @ Kare. It is submitted that in the said case, the petitioner has already been granted regular bail. Even with respect to case under Section 307 IPC, learned counsel for the petitioner has submitted that the petitioner has been granted regular bail by the Sessions Judge, Faridabad, vide order dated 02.08.2021 (Annexure P-10) and perusal of said order would show that no injury was caused to any person and only glass of the car had been damaged. Learned counsel for the petitioner has relied upon the judgment of Hon'ble Supreme Court in ***“Maulana Mohd. Amir Rashadi vs. State of U.P. and another”***, reported as ***2012 (2) SCC 382*** to contend that the facts and circumstances of the present case are to be seen while deciding a bail

application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in other cases. The relevant portion of the said judgment is reproduced hereinbelow:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

This Court has heard learned counsel for the parties and has perused the paperbook.

It is not in dispute that as per the FIR, all the accused persons have been attributed the same role and only two injuries have been caused to two persons, i.e. Constable Ram Mehar to whom injury has been caused on the middle finger of the left hand which was declared to be simple, and to Inspector Sudeep Singh to whom injury has been caused on left index finger which is stated to be grievous and the same has not been specifically attributed to the petitioner and is on non-vital part. It is not further in dispute that the petitioner has been in custody since 15.11.2018 and there are as many as 30 prosecution witnesses and out of them, two witnesses have been examined and thus, the trial is likely to take time moreso, in view of the present pandemic, and the co-accused of the petitioner, i.e. Raj Kumar and Sumesh who are similarly placed as the petitioner, have already been granted concession of regular bail vide orders dated 18.02.2020 and 13.02.2020 (Annexures P-4 and P-5), respectively and the custody of the petitioner is much more than the custody of his two co-accused who have

empty cartridge was found at the spot and there were no tyre marks or any other evidence suggestive of violence at the spot.

Keeping in view the above said facts and circumstances, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail / surety bonds to the satisfaction of the concerned trial Court/ Duty Magistrate and subject to him not being required in any other case.

Nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

(VIKAS BAHL)
JUDGE

December 16, 2021

Davinder Kumar

Whether speaking / reasoned

Yes/No

Whether reportable

Yes/No