

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

211

CRM-M-31898-2021(O&M)

Date of Decision : December 10, 2021

DHARMENDER ALAIS BABA

.....Petitioner

VERSUS

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present : Mr. Deepanshu Matya, Advocate
for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryana.

JASGURPREET SINGH PURI. J. (Oral)

CRM-41315-2021

The present application has been filed for placing on record
Annexures A-5 and A-6.

For the reasons recorded in the application, the same is
allowed and the accompanying Annexures A-5 and A-6 are taken on
record.

Main case

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.46 dated 18.3.2021 under Sections 307, 34 IPC and Section
25(1)(1B)(a) of Arms Act, 1959, registered at Police Station Sector-65,
District Gurugram.

It has been submitted by the learned counsel for the
petitioner that in the present case the petitioner is in custody from

8.4.2021 and after investigation of the case, the challan was presented before the competent Court and thereafter the charges were framed and material witnesses including the injured and the complainant have since been examined and all of them have not supported the prosecution version and they have turned hostile. He has submitted that although the petitioner was named in the FIR but there was no role attributable to the petitioner as per the version contained in the FIR and the allegations were mainly against one Mahesh. He further submitted that infact the petitioner has been falsely implicated in the present case and the petitioner has clean antecedents and is not involved in any other case and nothing is to be recovered from the petitioner and, therefore, his further incarceration would not be justified. He has also replied upon the depositions made by the material witnesses including the complainant as Annexures A-1 to A-6.

On the other hand, Mr. Panwar, learned DAG, Haryana has stated that it is correct that the petitioner is in custody from 8.4.2021 and investigation of the case is already complete and no recovery is to be effected from the petitioner and that it is also correct that material prosecution witnesses have been examined and the complainant as well as other eye witnesses have turned hostile. He has, however, submitted that one of the injured, namely, Mohit is yet to be examined. He has not disputed that the petitioner is not involved in any other case.

I have heard the learned counsels for the parties.

The custody of the petitioner is not in dispute. It is also not in dispute that the petitioner is not involved in any other case and the

complainant as well as the other eye-witnesses have been examined and they have not supported the prosecution version and they have turned hostile. In the affidavit filed by the State although it has been stated that in case the petitioner is granted bail then he may flee from justice and may tamper with the evidence. However, it appears that the plea has been taken in a mechanical manner and there is nothing to substantiate the plea taken by the State.

Therefore, without commenting anything on the merits and considering the aforesaid factual position, this Court deems 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/trial Court/Duty Magistrate.

December 10, 2021

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(JASGURPREET SINGH PURI)
JUDGE

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