

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

210

CRM-M-39409-2020

Date of Decision : October 26, 2021

AJAY ALIAS CHOTA

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present : Mr. Rudrashish Bhardwaj, 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.441 dated 18.11.2017 under Section 302, 323, 34 IPC and Section 25 of Arms Act registered at Police Station Civil Lines, Sonipat.

The learned counsel for the petitioner has submitted that in the present case, the petitioner is in custody since 22.02.2018 and out of 26 cited witnesses, 9 have been examined. He further submitted that as per the facts and circumstances of the case, the alleged attribution to the petitioner was pertaining to the injury which can at the most be termed as simple in nature and there is no *mens-rea* on the part of the petitioner. He further submitted that in the CCTV footage there is no act on the part of the petitioner and he had not caused any injury and, therefore, the petitioner may be considered for the grant of regular bail.

On the other hand, Mr. Panwar, learned DAG, Haryana has vehemently opposed the grant of bail to the petitioner. He submitted that a status report has been filed by the Deputy Superintendent of Police, Detective, Sonipat and while referring to the aforesaid status report, he has submitted that even as per the FIR, there is direct attribution to the petitioner that he attacked the deceased Ravi Dahiya with a knife and gave a blow on the left side of his chest. He further submitted that the complainant was examined as PW1 who supported the prosecution's case while deposing in examination-in-chief on 25.09.2018, however, during the cross-examination after about one year i.e. 25.10.2019 he resiled from his earlier deposition which was made on oath and he was declared hostile. The learned State counsel has submitted that in such like situation, petitioner is not entitled for the grant of regular bail. He further submitted that the knife which was recovered from the petitioner and which was used by him for committing the offence, was sent to the FSL, Madhuban and as per the FSL report, the said knife was stained with blood of human origin but the group of the blood was not found to be conclusive. He further submitted that the petitioner has inflicted injuries on the person of the deceased with a knife which was recovered from him alongwith his co-accused, who had committed the murder of Ravi Dahiya having previous grudge and there is strong evidence against him as well as the other co-accused. He further submitted that even in CCTV footage, the petitioner can also be seen. The learned State counsel has specifically referred to para no.9 of the affidavit to argue that in case the petitioner is enlarged on bail he can tamper with the prosecution evidence by influencing the witnesses and may also even abscond and hamper the trial.

He has further referred to para No.10 of the affidavit stating that the petitioner was also involved in four other cases. Although out of these four cases, petitioner has been acquitted in three cases and one case is pending under Section 307 IPC.

I have heard the learned counsel for the parties.

Although the petitioner is in custody since more than three years, but considering the facts and circumstances of the case wherein there is direct attribution towards the petitioner as he had injured the deceased with a knife and also coupled with the fact that when the complainant as PW1 had deposed on oath in the examination-in-chief but later on he resiled in his cross-examination which was conducted after one year, the petitioner does not deserve the concession of bail.

Finding no merit in the present petition, the same is dismissed.

However, anything contained in this order shall not be deemed as an opinion on the merits of the case.

October 26, 2021
sham/rajender

(JASGURPREET SINGH PURI)
JUDGE

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