

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

107

CRM-M-41259-2020 (O&M)

Date of decision: 18.03.2021

Aakil @ Atti

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Talim Hussain, Advocate
for the petitioner.

Mr. Ranvir Singh Arya, Addl. A.G., Haryana
for the respondent-State.

ARUN KUMAR TYAGI, J (ORAL)

CRM-30052-2020

For the reasons mentioned in the application, the same is allowed and the petitioner is exempted from filing certified copies of Annexures P-1 and P-2, true typed/translated copies of which are taken on record.

CRM-M-41259-2020

The petitioner has filed the present (first) petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.444 dated 03.11.2020 registered under Sections 148, 332, 353, 365, 307, 427 and 146 read with Section 149 of the Indian Penal Code, 1860 (for short, "the IPC"), Section 25 of the Arms Act, 1959 and Sections 3/13(1) and 8/13(3) of the Haryana Gauvansh Sanrakshan and Gaumavardhan Act, 2015 at Police Station Punhana, District Nuh.

Learned Counsel for the petitioner has orally prayed that in

the head note and prayer clause of the petition, Section 186 of the IPC has been wrongly typed as Section 146 of the IPC due to typographical mistake which may be allowed to be corrected.

Oral application so made is allowed and the typographical mistake is allowed to be corrected and the Registry of this Court is directed to carry out the necessary corrections by correcting Section 146 of the IPC as Section 186 of the IPC in the head note and prayer clause of the petition.

The petition has been opposed by the respondent-State in terms of reply filed by way of affidavit of Vivek Choudhary, HPS, Deputy Superintendent of Police, Punhana, District Nuh in the Registry of this Court which is taken on record.

I have heard arguments addressed by learned Counsel for the petitioner and learned State Counsel and gone through the record.

Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case. Raid was conducted by the police party on the house of Salim, father of the petitioner on the basis of secret information that cow slaughtering was taking place in the house. The petitioner, his father Salim and Fakru were allegedly apprehended by the police on the spot. One co-accused is alleged to have run away who was chased by Constable Ajay Kumar with secret informers Ali and Raju. The said co-accused was allegedly apprehended but on his alarm co-accused Ikhlal, Iqbal, Ikram, Irshad, Sattar, Sahid, Pappu, Lateef, Tahir, Kala, Shahid, Ashu, Nijjar, Ashu, Sadan, Aasam, Nijaam, Junaid and Asgar @ Bhura along with 10/15 other persons reached and attacked the police party and got the said

accused released. Allegedly co-accused Ikhlas had fired on Constable Ajay Kumar while co-accused Ikram also fired on police party with intention to kill which hit in the foot of secret informer Ali. Constable Ajay Kumar is alleged to have fired in the air in defence but co-accused Ikhlas, Ikram and Asgar @ Bhura and other co-accused are alleged to have fired on the police party with intention to kill them. Co-accused gave beatings to the police party and also took secret informer Ali and Raju with them. The petitioner had already been apprehended and, therefore, the petitioner had no role in the subsequent incident of giving beatings to and firing at the police party and the secret informers. Offences under Sections 186, 332, 353, 365, 307 and 427 of the IPC and Section 25 of the Arms Act, 1959 are not made out against the petitioner. The petitioner is in custody since 04.11.2020. The trial is likely to take long time due to restrictions imposed to prevent spread of Covid-19. No useful purpose will be served by further detention of the petitioner in custody. Therefore, the petitioner may be granted regular bail.

On the other hand, learned State Counsel has submitted that in view of the nature of accusation and gravity of the offences, the petitioner does not deserve grant of regular bail. Therefore, the petition may be dismissed.

In view of the facts and circumstances of the case, nature of accusation and evidence against the petitioner, role attributed to him and his non-involvement in the second incident and also the fact that the trial is likely to take long time due to restrictions imposed to prevent the spread of Covid-19, but without commenting on the merits

of the case, I am inclined to extend the concession of regular bail to the petitioner.

Accordingly, the petition is allowed and the petitioner is ordered to be released on regular bail on furnishing of personal and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

However, the petitioner is granted regular bail subject to the condition that he shall not commit any offence under the Haryana Gauvansh Sanrakshan and Gaumavardhan Act, 2015 after his release on bail and in case of commission of any such offence by him in future, his bail in the present case shall also be liable to be cancelled on application to be filed by the prosecution in this regard.

18.03.2021

Vinay

**(ARUN KUMAR TYAGI)
JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No