

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-19309-2022

Date of decision : 07.09.2022

Bharat @ Bhushan

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Rakesh Sobti, Advocate
for the petitioner.

Mr.Munish Sharma, AAG, Haryana.

VIKAS BAHL, J.(ORAL)

This is a petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR no.198 dated 24.06.2020 registered under Sections 302, 450, 120-B, 34 IPC and Sections 25, 54 & 59 of the Arms Act at Police Station Sanjay Gandhi Memorial (SGM) Nagar, District Faridabad.

Learned counsel for the petitioner has submitted that the petitioner has been in custody since 11.08.2020 and there are 46 witnesses and none of them have been examined and thus, the trial is likely to take time. It is further submitted that the petitioner is not named in the FIR and as per the said FIR, the complainant had seen that three persons had gone into the house with the deceased and then the complainant was informed by his other brother Raju that three persons had shot at the brother of the complainant (deceased Praveen) and had killed him and in the supplementary statement dated 12.07.2020 (Annexure P-2), the complainant had specified that the said three persons were Sunny, Manjit and Bachi and

an eye witness, had also got recorded his statement to the effect that it was the said three persons who had fired at the deceased and the present petitioner was not named therein. The statement of Ankit was also to the same effect. It is submitted that Rohit, who is similarly placed as the present petitioner, has already been granted regular bail by a coordinate Bench of this Court vide order dated 05.01.2022 passed in CRM-M-48074-2021.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that in the present case, the petitioner, along with co-accused Rohit, had taken the main accused back from the place of the occurrence and even as per the call details, the petitioner was in constant touch with the main accused. It is further submitted that the petitioner is involved in four other cases. The other facts have, however, not been disputed.

Learned counsel for the petitioner, in rebuttal, has submitted that the petitioner is on bail in all the cases and 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 paper book.

The petitioner has been in custody since 11.08.2020 and there are 46 witnesses and none of them have been examined and thus, the trial is likely to take time and as per the said FIR, the petitioner has not been named therein and the deceased Praveen had been shot by three boys and as per the supplementary statement of the complainant dated 12.07.2020, the said three boys were Sunny, Manjit and Bachi and the present petitioner was not even named therein. Even statements of eye witnesses Raju and Ankit have been recorded under Section 161 Cr.P.C. and both the said witnesses have also named the above said three persons as the persons, who had fired at the deceased and not the present petitioner. The co-accused Rohit has already been granted regular bail by a coordinate Bench of this Court vide order dated 05.01.2022 passed in CRM-M-48074-2021 and the case of the petitioner is stated to be on a similar footing as that of the said Rohit.

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.

However, it is made clear that in case, any act is done by the petitioner to threaten or influence the complainant or any of the witnesses, then it would be open to the State to move an application for cancellation of bail granted to the petitioner.

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.

September 07, 2022

Davinder Kumar

(VIKAS BAHL)

JUDGE

Whether speaking / reasoned

Whether reportable

Yes/No

Yes/No