

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-21409-2022
Date of decision : 18.08.2022

Ankush @ Bachi

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Pankaj Mehta, Advocate
for the petitioner.

Mr.Munish Sharma, AAG, Haryana.

VIKAS BAHL, J.(ORAL)

This is a first petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR no.0189 dated 25.06.2021 registered under Sections 323, 307 IPC and Section 25 of the Arms Act at Police Station Sadar Hansi, District Hisar.

Learned counsel for the petitioner has submitted that the petitioner has been in custody since 08.07.2021 and there are 18 witnesses and out of which only 2 witnesses have been examined and thus, the trial is likely to take time. It is further submitted that the petitioner was not named in the FIR and was subsequently stated to be the unknown person who allegedly caused fire arm injury on the right side of the arm of the complainant Rohit. It is also submitted that the said Rohit has been examined as PW-1 and he has not supported the case of the prosecution and said fact is apparent from the paragraphs 2 and 5 of the order rejecting bail of the petitioner. It is stated that even PW-2 Mandeep, who is alleged to be

present case there is only one injured, i.e PW-1 Rohit.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that there are 3 more eye witnesses of the occurrence, who have not been examined as yet and the present petitioner is involved in other cases also.

Learned counsel for the petitioner, in rebuttal, has submitted that the petitioner is on bail in the said 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.”

It is further argued by learned counsel for the petitioner that there is only one injured, i.e. Rohit, who has not supported the case of the prosecution.

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

The petitioner has been in custody since 08.07.2021 and there are 18 witnesses and out of which only 2 witnesses have been examined and

and as per the FIR only one person has been injured, i.e. Rohit who had suffered gun shot injury on the right side of his arm. An unknown person had caused the said injury as per the FIR. As per the prosecution's case, the unknown person is the present petitioner. The injured Rohit has been examined as PW-1 and he has not supported the case of the prosecution. Even PW-2 Mandeep, who is an eye witness, has also not supported the case of the prosecution. The said fact is apparent from paragraphs 2 and 5 of the order dated 11.03.2022 rejecting bail of the petitioner and has also not been disputed by learned State counsel.

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.

(VIKAS BAHL)
JUDGE

August 18, 2022

Davinder Kumar

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No