

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(223)

CRM-M-21968-2022

Date of decision: - 06.09.2022

Rohit @ Dada

....Petitioner

Versus

State of Haryana

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Akshay Kumar Dahiya, Advocate
and Mr. Vipul, Advocate, for the petitioner.

Mr. Dhruv Sihag, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

This is the second petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No.253 dated 01.08.2020, under Sections 307, 302, 120-B and 34 IPC and Sections 25 & 27 of Arms Act, registered at Police Station Asaudha, Bhadurgarh, District Jhajjar.

Learned counsel for the petitioner has submitted that the petitioner has been in custody since 20.05.2021 and the investigation is completed and there are total 33 prosecution witnesses, out of whom, none have been examined, thus, the trial is likely to take time. It is further submitted that the petitioner has not named in the FIR and in the FIR, four persons have been specifically named, which are Vikas, Sachin, Mithun

@ Bihari and Suresh, out of the said four persons, three persons have been alleged to have fired shots at Ravinder (deceased) & Gulab (injured), namely, Vikas, Mithun @ Bihari and Sachin. There were two unknown boys stating to be accompanying the said co-accused in the FIR, but no specific overt act has been attributed to the said unknown persons. It is submitted that the petitioner was not named by co-accused Suresh, who was the first person arrested in the present case and it is submitted that the petitioner had been implicated only subsequently, on the basis of disclosure statement of co-accused Anuj, even as per which, no injury had been attributed to the present petitioner. It is further submitted that no weapon allegedly used in the commission of the offence has been recovered from the present petitioner and that the present petitioner is not involved in any other case.

Learned State counsel on the other hand has opposed the present petition for regular bail and has submitted that the recovery of one of the motorcycles has been effected from the present petitioner.

Learned counsel for the petitioner, in rebuttal, has submitted that as per report under Section 173 Cr.P.C., the recovery of the same motorcycle has been shown to have been effected from the present petitioner as well as from co-accused Vikas.

This Court has heard learned counsel for the parties and has gone through the paper-book.

The petitioner has been in custody since 20.05.2021 and the investigation is complete and there are total 33 prosecution witnesses, out of whom none have been examined, thus, the trial is likely to take time.

The petitioner is stated to be not involved in any other case. The petitioner was not named in the FIR, however, four persons had been specifically named in the FIR i.e., Vikas, Sachin, Mithun @ Bihari and Suresh and the allegations with respect to the shots fired from the pistol have been levelled against three persons i.e., Vikas, Mithun @ Bihari and Sachin. There were two unknown persons stated to be accompanying the said co-accused in the FIR, but no specific overt act has been attributed to the said two unknown persons. The petitioner has been implicated in the present case on the basis of the disclosure statement of co-accused Anuj and no specific injury, much less, a gun shot injury, has been attributed to the present petitioner. No weapon has been recovered from the present petitioner. The earlier bail petition of the petitioner was dismissed as withdrawn at that stage on 30.03.2022 and even after the passing of the said order, sufficient period has elapsed and the trial is still at the initial stage, thus, entitling the petitioner to file the present second petition for grant of regular bail.

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 06, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No