

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

205+107

CRM-M-27987-2021 (O&M)

Decided on : 10.03.2022

Raj Kumar @ Sonu

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

(Through Video Conferencing)

PRESENT: Mr. Robin Singh Hooda, Advocate
for the petitioner.

Mr. Praveen Bhadu, AAG, Haryana.

VIKAS BAHL, J. (Oral)

CRM-8824-2022

Present application has been filed for placing on record the affidavit of injured namely Amit son of Bhup Singh dated 29.01.2022 and Zimni orders passed in CNR No. HRR01-004619-2021 SC 52 dated 11.06.2021, titled as State Vs. Raj Kumar as Annexure A-1 and A-2 respectively.

For the reasons mentioned in the application, same is allowed subject to all just exceptions and Annexures A-1 and A-2 are taken on record.

Main Case

The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No. 355 dated 13.09.2020 under Sections 307 and 34 of the Indian Penal Code, 1860 and

Sections 25 and 27 of Arms Act, 1959 (Section 341, 201, 506 IPC added later on) registered at Police Station Rohtak Sadar, District Rohtak (Annexure P-1).

Learned counsel for the petitioner has submitted that in the present case, although, as per the FIR, the petitioner has been attributed one injury with a fire arm but the complainant-Anil has given an affidavit (Annexure P-5) to the effect that it was not the present petitioner who had given the said injury and the shot was fired by somebody else. It is further submitted that the said affidavit of Anil is genuine and was even placed on record before the Sessions Judge, Rohtak. It is contended that even the injured Amit has given an affidavit (Annexure A-1), alongwith CRM-8824-2022, and even in that, it has been stated that the present petitioner had not fired upon the injured and in fact, it was the present petitioner who took him to the hospital. It is further contended that the petitioner is in custody since 19.02.2021 and the challan has already been filed and there are as many as 18 witnesses, none of whom have been examined and even the charges have not been framed as yet and thus, the trial is likely to take time, moreso, in view of the present COVID-19 pandemic situation.

Learned State counsel, on the other hand, has opposed the present application for regular bail and has submitted that the petitioner is involved in other cases also.

Learned counsel for the petitioner, in rebuttal, has submitted that the petitioner has been granted the concession of bail/

suspension of sentence in the abovesaid cases and has submitted that as per settled law, it is the facts of the present case which are required to be considered for the purpose of deciding the present bail application. For the said proposition, learned counsel for the petitioner has relied upon judgment dated 16.01.2012 passed by the Hon'ble Supreme Court in Criminal Appeal No.159 of 2012 titled as ***Maulana Mohd. Amir Rashadi Vs. State of U.P. and others*** 2012 (2) SCC 382 reference has been made to the relevant portion of paragraph 6 which 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 paperbook.

In the FIR, it has been alleged that it is the present petitioner who had given the gun shot injury to the injured but on perusal of the affidavit of Anil (complainant) as well as the affidavit of Amit (injured) would show that both of them have specifically stated that it was not the present petitioner who had fired upon the injured and it has also been stated by Amit that in fact, it was the present petitioner who had taken him to the hospital. The fact that Anil (complainant) had given affidavit in favour of the petitioner, has also been noticed in the

order dated 09.07.2021 vide which the bail application of the petitioner had been declined. The petitioner is stated to be in custody since 19.02.2021 and the challan in the present case has already been presented and there are as many as 18 witnesses, none of whom have been examined and thus, the trial is likely to take time, moreso, in view of the present COVID-19 pandemic situation.

Keeping in view the abovesaid facts and circumstances and also the law laid down in *Maulana's* (supra) case, 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 his not being required in any other case.

However, 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 application.

(VIKAS BAHL)
JUDGE

March 10th, 2022

Mehak

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No