

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

213

CRM-M-30466-2022(O&M)
Date of Decision : **October 14, 2022**

VIKAS KUMAR ALIAS LALLA

.....Petitioner

VERSUS

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present : Mr. Sahil Choudhary, Advocate
for the petitioner.

Mr. Ranvir Singh Arya, Addl. Advocate General, Haryana.

Mr. Deepak Aggarwal, Advocate
for the complainant.

JASGURPREET SINGH PURI. J. (Oral)

The present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No.152 dated 25.9.2021 under Sections 148, 149, 323, 325, 326, 427, 506, 307, 302 IPC, registered at Police Station Sadar Jagadhri, District Yamuna Nagar.

It has been submitted by the learned counsel for the petitioner that the petitioner is in custody from 13.10.2021 which is more than one year. He submitted that the investigation has already been completed and thereafter the challan has been presented. The trial has already commenced and two witnesses have already been examined although the injured has not been examined but the charges in the present case were framed on 8.2.2022 and about 8 months have elapsed but till date the injured has not been examined with the result that the petitioner

has faced incarceration for more than one year. He further submitted that the petitioner has clean antecedents and he is not involved in any other case and he was not even named in the FIR and was nominated on the basis of the disclosure statement made by the co-accused. He submitted that as per the prosecution, one *danda* has been recovered from the petitioner and now no recovery is to be effected from the petitioner and, therefore, considering the aforesaid facts and circumstances, he may be considered for the grant of regular bail.

On the other hand, the learned State counsel has submitted that it is correct that the petitioner is in custody from 13.10.2021 and the investigation of the case has been completed and now no recovery is to be effected from the petitioner. He also submitted that an affidavit has been filed by the State and while referring to the affidavit, he submitted that the petitioner was nominated on the basis of the disclosure statement of the co-accused and has not been named in the FIR and as per para No.9 of the affidavit, there is no other criminal case against the petitioner. He has, however, opposed the grant of regular bail on the ground that the petitioner was a member of an unlawful assembly which had caused injuries and the injured persons have not been examined as yet and, therefore, the petitioner may not be granted regular bail.

Learned counsel for the complainant has opposed the grant of regular bail to the petitioner on the same grounds as that of the learned State counsel that the petitioner was a member of an unlawful assembly.

I have heard the learned counsels for the parties.

The petitioner has faced incarceration for more than one

year. As per the affidavit filed by the State, the petitioner is not involved in any other case. No recovery is to be effected from the petitioner and his name was nominated on the basis of the disclosure statement made by co-accused and it is yet to be ascertained at the time of the trial as to whether the petitioner was member of an unlawful assembly or not. Apart from the same, it is neither stated in the affidavit filed by the State nor it has been argued by the learned State counsel that in case the petitioner is released on bail then he may influence any witness or may tamper with any evidence or may flee from justice. Therefore, the fact that the injured persons have not been examined would not become a ground for denial of bail to the petitioner.

Therefore, considering the totality of the circumstances of the present case, this Court deems it fit and proper to grant bail to the petitioner.

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

However, anything observed here-in-above shall have no effect on the merits of the case and is meant for deciding the present petition only.

(JASGURPREET SINGH PURI)
JUDGE

October 14, 2022
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Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No