

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-34160-2022
Date of Decision: 15.09.2022

Anshul

....Petitioner(s)

Versus

State of Haryana

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Sarfraj Hussain, Advocate, for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryana.

JASGURPREET SINGH PURI, J. (Oral)

The present is a third petition filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in FIR No. 357 dated 28.07.2019, under Sections 186, 353, 365, 394, 307, 511, 34 IPC and Section 25 of Arms Act, registered at Police Station Sector-14, District Gurugram.

The learned counsel for the petitioner has submitted that the petitioner is in custody for 3 years and 1 month and out of 25 witnesses, 15 have already been examined. He submitted that this is a third successive bail petition and earlier two bail petitions were dismissed as withdrawn on 19.11.2020 and 30.05.2022 vide Annexure P-3 and P-3A. He submitted that thereafter the injured has been examined and he has been declared hostile and the other co-accused have also been granted bail and therefore, he may also be considered for the grant of regular bail.

On the other hand, learned State counsel has submitted that although the petitioner has faced incarceration for more than 3 years but the allegations in the present case were that the petitioner alongwith other co-accused had tried to forcibly snatch Jaguar Car , apart from kidnapping the driver of the car and when the policeman came to rescue, it was the petitioner who has fired a shot from his pistol which hit the stomach of the policeman. He submitted that during investigation the pistol which was recovered from the petitioner got matched with the cartridges which were recovered from the spot. He further submitted that the witness whom the learned counsel for the petitioner is referring to has turned hostile was in fact recalled for cross-examination and he has stated that he could not identify because at that time it was dark but the statement of the policeman who is the injured cannot be construed as he has stated that it was not the petitioner who has fired and the statement is to be appreciated at the time of trial. He further submitted that apart from the same, the petitioner is involved in 4 more cases of similar nature regarding which the details have already been mentioned by the petitioner in para No.25 of the present petition. He submitted that the petitioner is repeatedly committing the offences under the Arms Act and the pistol which was recovered from the petitioner was a country made pistol. He submitted that there is reasonable apprehension that in case the petitioner is released on bail, then he may not only abscond from justice but he may also influence the witnesses or may repeat offence and therefore, the learned State counsel has vehemently opposed the grant of regular bail to the petitioner.

I have heard the learned counsel for the parties.

The petitioner is in custody for about 3 years but as per the

learned State counsel 15 out of 25 witnesses have already been examined. This is a third successive bail petition of the petitioner. The argument raised by the learned counsel for the petitioner that the other co-accused have been granted bail will not vest any right in petitioner since the other co-accused were not at parity with the petitioner because the petitioner was the main accused who allegedly fired upon the policeman who received injuries in his stomach. The petitioner is also stated to be involved in 4 more cases of similar nature which also involve Arms Act. Apart from the same, the learned State counsel has also pointed out that during investigation it was found that the pistol which was recovered from the petitioner matched with the cartridges and the bullets. The apprehension expressed by the learned State counsel based upon the facts and circumstances, other sufficient material and also the antecedents of the petitioner that in case the petitioner is released on bail, then there is every possibility that he may abscond and he may influence the witness or may repeat the offence cannot be ignored and carries weight.

In view of the aforesaid facts and circumstances, this Court does not deem it fit and proper to grant regular bail to the petitioner.

Consequently, the present petition is hereby dismissed.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

15.09.2022

rakesh

Whether speaking
Whether reportable

(JASGURPREET SINGH PURI)

JUDGE

: Yes/No
: Yes/No