

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

**CRM-M-34232-2022
Date of decision: 06.09.2022**

RAHUL ALIAS KOKI

....Petitioner(s)

Versus

STATE OF HARYANA

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. Ajay Arora Bharti, Advocate for
Ms. Divya Narula, Advocate
for the petitioner.

Mr. Gaurav Bansal, AAG, Haryana.

AMAN CHAUDHARY, J.(Oral)

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in respect of FIR No.221 dated 08.09.2020 under Sections 307//34/506 IPC 1860 & 25 of Arms Act 1959 registered at Police Station Kalanwali, District Sirsa.

Learned counsel for the petitioner submits that it is a case of no injury and the same was registered on an application moved by complainant Babbu alias Divesh Kumar before the police alleging therein that he was resident of Ward No.9, Mandi Kalanwali and he was a student of BA. On the previous night his friend Laxman s/o Dharam Pal and Divesh alias Juggi son of Shiv Kumar, resident of Ward No.9, Mandi Kalanwali were talking with each other while sitting on the roof of their house. At about 9.00 PM, he received a telephonic call on his mobile phone from Kokki that he had been

saved one day earlier and he further said that they all three were coming to his house. After some time, Rahul alias Kokki s/o Lal Chand, Kulwinder s/o Gurmel Singh, residents of Mandi Kalanwali and Rakesh alias Keshi son of Kala Singh, resident of village Kalanwali came in the street in front of his house and while abusing him, they remarked that they will teach him a lesson and saying so, Kokki took the pistol which was holding by Keshi in his hand, and fired a shot aiming at him but he sat down. Thereafter, he threw bricks lying on the roof, on them and then all the assailants ran away from the spot and while leaving the spot, all the three accused administered a threat that he has been saved on that day and that they will kill him on the next opportunity.

Learned counsel for the petitioner further submits that no injury has been attributed to the petitioner, though he stated to have fired, but no one was injured on account thereof. He further submits that this is a case of version and cross-version inasmuch as that even the petitioner has also received some injuries and an FIR was registered under Section 307 IPC in the same occurrence. Learned counsel for the petitioner further submits that two co-accused in the present case have also been granted regular bail, one of whom namely Kulwinder was granted bail, vide order dated 17.03.2022 (Annexure P-3), whereas the other co-accused namely Rakesh was granted bail by Ld. Additional Sessions Judge, Sirsa.

It is further submitted by the learned counsel for the petitioner that the petitioner is in custody since 19.01.2021. He further submits that challan has been presented and recovery has been effected. The case is now for prosecution evidence which according to him is likely to take sufficient time in view of the fact that there are 20 PWs in the case and only 1 PW has been examined.

Learned State counsel on the other hand opposes the prayer for grant of bail on account of the fact that he is an accused in another case registered under Section 302 IPC, in which he has been convicted. However, learned counsel is unable to dispute the factum of the petitioner being in custody since 19.01.2021 and that the co-accused have also been granted regular bail. Learned State counsel also affirms the fact that only one PW has been examined and next date before the trial Court for prosecution evidence is 06.01.2023.

Heard learned counsel for the parties.

It is a case where the petitioner was alleged to have fired a bullet but no one was injured. The petitioner has been in custody in this case for the last 1 year and 8 months. It is also the admitted position between the parties that out of 20 PWs only 01 PW has been examined. The firearm alleged to have been used as mentioned in the FIR has since been recovered. Both the co-accused named in the FIR have since been granted regular bail, one of whom by a Co-ordinate Bench of this Court vide order dated 17.03.2022 (Annexure P-3). It is also the case of the petitioner that the occurrence has a cross version as well, wherein the learned counsel refers to an order passed by Co-ordinate Bench of this Court dated 17.05.2022 granting bail to the complainant in this case, who was one of the accused in the cross-version, in which FIR No.225 dated 09.09.2020 was registered under Section 148, 149, 307, 506 of IPC and Section 25 of the Arms Act, whereas it has been stated by the learned counsel for the petitioner that one of the co-accused involved in the present case was injured. The aspect as to which party was the aggressor would be a matter of trial.

Accordingly, the present petition is allowed. The petitioner is

ordered to be released on regular bail, subject to his furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate concerned and subject to him not being required in any other case. The petitioner shall abide by the following conditions:-

1. The petitioner will not tamper with the evidence during the trial.
2. The petitioner will not pressurise/ intimidate the prosecution witnesses.
3. The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.
4. The petitioner shall not commit an offence similar to the offence of which, he is an accused, or for commission of which he is suspected of.
5. The petitioner shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/ her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.
6. The petitioner shall not in any manner misuse his liberty.
7. Any infraction shall entail in withdrawal of the benefit granted by this Court.

It is, however, clarified that nothing stated hereinabove be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made above, which have only been made for the purpose of adjudicating the present petition for grant of regular bail.

September 06, 2022

sangeeta

(AMAN CHAUDHARY)
JUDGE

Whether reasoned/speaking: Yes/No

Whether reportable: Yes/No