

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

211

**CRM-M-39138-2022  
Decided on : 14.10.2022**

Aman

. . . Petitioner(s)

Versus

State of Haryana

. . . Respondent(s)

**CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH**

**PRESENT:** Mr. Manoj Tanwar, Advocate  
for the petitioner(s).

Mr. Ashish Yadav, Addl. AG, Haryana.  
assisted by ASI Surinder Kumar.

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**SANJAY VASHISTH, J. (Oral)**

The instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail to the petitioner – Aman, who has been booked for having committed the offence punishable under Section 392, 412, 120-B of IPC and Sections 25, 54, 59 of the Arms Act, 1959, in FIR No.398, dated 26.05.2022, registered at Police Station City Hisar, District Haryana during the pendency of trial.

Learned counsel for the petitioner argues that the FIR was got lodged at the instance of complainant Ajay son of Rameshwar Goyat. As per the allegations on dated 26.05.2022 at 12:50 A.M., 03 young boys sitting on the motorcycle followed the complainant and on stopping of the motorcycle, they took away two mobile phones with the SIM in it. Learned counsel for the petitioner further argues that subsequently, after arresting of the petitioner and his co-accused Ashwani, Test Identification Parade (TIP) was conducted on 10.08.2022. Proceedings of TIP recorded on 10.08.2022, by Ld. CJM, Hisar, says as under:-

*“The undersigned accompanied with Sh. Dheeraj Jain, COC of this court reached at Central Jail, I Hisar and the authorities concerned were updated about the conducting of test identification parade. Since two alleged accused were to be identified, 20 people were made to stand in a row wherein the alleged accused were placed at Serial no.7 and 10 when seen from left to right. All the people who were made to stand were of almost the same height and built. The concerned police authorities were made to stand outside and the complainant was asked to come forth and identify the accused. Complainant Ajay came and identified accused Ashwani within 30 seconds. He touched the accused and also turned him from back to identify. The complainant took a round till the end of the line and also came back but was unable to identify the other accused Aman who was standing at Sr. No.10. The complainant was asked if he has any further confusion to which he stated that he can only identify accused Ashwani. Test Identification Proceedings were concluded. Papers be tagged with the case FIR.”*

Thus, while referring to the concluding part of the aforesaid report, learned counsel for the petitioner argues that once TIP is conducted and petitioner is not identified, chances of ending the case in conviction of the petitioner, have gone bleak. In addition, learned counsel for the petitioner also argues that petitioner is not involved in any other case of similar nature.

*Per contra*, learned State counsel while vehemently opposing the prayer and submissions made by learned counsel for the petitioner, submits that the alleged offence has taken place after the midnight, therefore, there may be error in establishing the identification of the petitioner, and thus, petitioner cannot be allowed to draw the complete benefit of the said conclusion of the TIP at this stage. He further submits that as per the case of prosecution recovered motorcycle, which was used in the incident, belongs to petitioner.

However, on asking by the Court, learned State counsel, on

instructions from ASI Surinder Kumar, submits that after completion of investigation, challan has been submitted before the trial Court, however, charges are yet to be framed.

I have heard learned counsel for the parties and perused the relevant material on record.

Be that as it may, it is conceded by the State also that the petitioner is not involved in any other case of similar nature, and as per report of TIP conducted on 10.08.2022 (P-2) conducted at the instance of Ld. CJM, Hisar, petitioner was not identified, though, his co-accused Ashwani had been identified.

In view of the submissions and the factors noticed hereinabove, this Court is of the view that petitioner, who is inside jail since 26.07.2022 and is not involved in any other case of similar nature, and also has not been identified in the Test Identification Parade, I deem it appropriate to release the petitioner on bail.

Accordingly, prayer made in the present **petition is allowed**. Petitioner is ordered to be released on bail in this case, subject to his furnishing bail/surety bonds to the satisfaction of the learned trial Court/ Chief Judicial Magistrate/ Illaqa Magistrate/ Duty Magistrate concerned, if not required in any other case.

Needless to observe that the petitioner shall not extend any threat and shall not influence any prosecution witness in any manner directly or indirectly.

The observation made here-in-above shall not be construed as an expression on the merits of the case and the Trial Court shall decide the case on the basis of evidence available on record.

It is made clear that in case in future, petitioner is found

involved in another case of similar nature, prosecution would be at liberty to move an application for cancellation of bail in the present case.

Petition stands disposed of.

(SANJAY VASHISTH)  
JUDGE

**October 14, 2022**

*J.Ram*

*Whether speaking/reasoned:*      *Yes/No*  
*Whether Reportable:*                *Yes/No*