

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-43687-2022(O&M)
Date of decision : 29.11.2022

Vikas @ Vicky

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Keshav Pratap Singh, Advocate
for the petitioner.

Mr. Vishal Malik, DAG, Haryana.

VIKAS BAHL, J.(ORAL)

This is a petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR no.461 dated 30.12.2020 registered under Sections 120-B, 302, 307, 34 IPC and Sections 25, 27 of the Arms Act, 1959 at Police Station Urban Estate, Rohtak, District Rohtak.

Learned counsel for the petitioner has submitted that the petitioner has been in custody since 30.12.2020 and there are 32 witnesses, out of which, 11 witnesses have been examined and thus, the trial is likely to take time. It is submitted that the petitioner was not named in the FIR and the subsequently as per the investigation, the present petitioner had been alleged to have fired at injured Mohit. It is contended that as per the prosecution case, two eye witnesses i.e. Krishan (complainant) and Mohit (injured) have already been examined as PW-4 and PW-5, respectively and they have not supported the case of the prosecution. It is further contended

that one of the co-accused of the petitioner namely Manjeet has been

granted the concession of regular bail by a coordinate Bench of this Court vide order dated 08.06.2021 passed in CRM-M-21784-2021.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that the petitioner has been attributed gun shot injuries inflicted upon injured Mohit and 7.65 mm pistol has been recovered from the present petitioner.

Learned counsel for the petitioner, in rebuttal, has submitted that from the FSL report, it is clear that the fired cartridges had not been fired from the gun which has been recovered from the present petitioner.

This Court has heard learned counsel for the parties and has perused the paper book.

The petitioner has been in custody since 30.12.2020 and there are 32 witnesses, out of which, 11 witnesses have been examined and thus, the trial is likely to take time and the petitioner is not named in the FIR and as per the investigation by the police, the petitioner is stated to have fired at injured Mohit and said Mohit as well as the complainant Krishan have been examined as PW-5 and PW-4, respectively and they have not supported the case of the prosecution. The FSL report also prima facie shows that the gun which has been recovered from the present petitioner was not the gun from which the alleged firing had been done. Co-accused of the petitioner Manjeet has been granted the concession of regular bail by a coordinate Bench of this Court vide order dated 08.06.2021 passed in CRM-M-21784-2021.

Keeping in view the above said facts and circumstances, 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 him not being required in any other case.

However, it is made clear that in case, any act is done by the petitioner to threaten or influence the complainant or any of the witnesses, then it would be open to the State to move an application for cancellation of bail granted to the petitioner.

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 petition.

Pending miscellaneous application, if any, stands disposed of in view of the abovesaid order.

(VIKAS BAHL)
JUDGE

November 29, 2022
Davinder Kumar

Whether speaking / reasoned	Yes/No
Whether reportable	Yes/No