

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

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**CRM-M-48444-2022
Decided on : 27.10.2022**

Ajay Kumar

. . . Petitioner(s)

Versus

State of Haryana

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Yashvir Balhara, Advocate
for the petitioner(s).

Mr. Vikas Bhardwaj, AAG, Haryana
assisted by ASI Satyavender.

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 – Ajay Kumar, who has been booked for having committed the offence punishable under Sections 307, 120-B of IPC 1860, and Section 27(1) of Arms Act, 1959, in FIR No. 132, dated 24.06.2020, registered at Police Station Bhondsi, District Gurugram, during the pendency of trial.

At the outset, learned State counsel has filed the custody certificate dated 26.10.2022 in Court today, which is taken on record, subject to all just exceptions. Office to tag the same at appropriate place.

A copy thereof has been handed over to the counsel for the petitioner.

Learned counsel for the petitioner argues that as per allegations mentioned in the FIR, injured complainant Maharaj Singh suffered firearm injury on shot being fired by one Bunty, who reached in the company of one

Mahender on the motorcycle. Thus, learned counsel for the petitioner argues that name of the petitioner was not mentioned in the FIR. He further submits that only one shot was fired by said Bunty, which hit near to armpit of the injured Maharaj Singh.

Learned counsel for the petitioner further submits that on disclosure statement of co-accused Mahender, name of one Virender surfaced and after arrest of said Virender, another disclosure statement of said Virender was recorded, in which, this fact was disclosed that one country-made pistol along with live cartridge was purchased from the present petitioner.

Learned counsel for the petitioner argues that petitioner has been falsely implicated in the present case, and he has nothing to do with the offence in question. Otherwise also, petitioner is resident of different place i.e. District Bharatpur (Rajasthan). He further submits that there are fairly arguable points during the course of the trial showing innocence of the petitioner. Thus, further incarceration of the petitioner is of no use, and trial is also not likely to conclude in the near future.

To counter the arguments addressed by learned counsel for the petitioner, learned State counsel submits that petitioner has been challaned with the aid of Section 120-B of IPC, and thus, absence of petitioner at the time of incident on the place of occurrence will not be a material fact. Learned State counsel further submits that petitioner is also involved in two other cases under the Arms Act as well as under Sections 506 & 447 of IPC etc. However, when pointed out by learned counsel for the petitioner that petitioner is already on bail in those cases, learned State counsel is unable to dispute the said fact.

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

There is no doubt that as per version of the FIR, petitioner is not present on the spot at the time of incident. As argued, I have noticed that name of the petitioner has surfaced on the disclosure statement of the co-accused Virender with the allegation of purchasing of one country-made pistol with live cartridge from him. Whether merely purchasing of said country-made pistol and live cartridge from the petitioner, would constitute conspiracy or not, would be the subject matter of the trial to be decided at the final stage. Therefore, in view of this Court, keeping the petitioner inside jail after completion of investigation without there being any other material with the prosecution showing his involvement in the crime, would not be of any use to the either side.

In view of totality of circumstances, and the factors noticed hereinabove, I deem it appropriate to grant the concession of bail to the petitioner.

Consequently, prayer made in the present petition is **allowed**. Petitioner is ordered to be released on bail, 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 hereinabove shall not be construed as an expression of opinion on the facts of the case and the Trial Court is expected

to decide the case on the basis of complete evidence available on record.

Petition stands disposed of.

(SANJAY VASHISTH)
JUDGE

October 27, 2022

J.Ram

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