

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

CRM-M-57740-2022

Date of Decision: 16th December, 2022

Shahid

... Petitioner

Versus

State of Haryana

... Respondent

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Kartar Singh, Advocate for the petitioner.
Mr. Gurmeet Singh, AAG, Haryana.

AVNEESH JHINGAN , J.(Oral)

1. This second petition is filed seeking regular bail in FIR No. 145, dated 26th May, 2020, under Sections 307 read with Section 34 of Indian Penal Code, 1860 and Section 27 of Arms Act, 1959 (subsequent Section 302 IPC has been added and Section 307 IPC has been deleted), registered at Police Station Hathin, Palwal, District Palwal. Earlier petition was withdrawn on 23rd March, 2021 with liberty to revive the prayer at a later stage.

2. Learned counsel for the petitioner claims parity with co-accused Sagar who was granted regular bail by this court on 11th November, 2022.

3. The following order was passed by this Court on 11th November, 2022:-

“The present petition has been filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No. 145 dated 26.05.2020, under Sections 307/34 IPC and Section 27/54/59 of Arms Act (Section 307 IPC was deleted and Section 302 IPC was added later on), registered at Police Station Hathin, District Palwal.

Learned counsel for the petitioner has submitted that the petitioner is in custody from 01.06.2020 which is almost 2 years and 5 months. He further submitted that it is a case where the allegations in the FIR were that the complainant was informed by the petitioner

himself that the son of the complainant has been shot and he has been injured and the petitioner himself alongwith the other co-accused had taken him to the hospital. He further submitted that earlier FIR was lodged under Section 307 IPC but later on unfortunately the injured died after a period of 20 days and thereafter, the provisions of Section 302 IPC were added. He further submitted that it was only thereafter after a period of 3 days that a supplementary statement was got recorded by the complainant by stating that in fact the petitioner had shot the deceased. He further submitted that there was a total contradiction between the complaint made in the FIR and the supplementary statement. He further submitted that rather it was the petitioner who had informed the complainant and had taken the injured to the hospital. He further submitted that the petitioner is not a habitual offender and is not involved in any other case and has faced incarceration for 2 ½ years and total four witnesses have already been examined including the complainant.

On the other hand, Mr. Naveen Singh Panwar, learned Deputy Advocate General, Haryana has submitted that it is correct that the petitioner is in custody for about 2 years and 5 months and 4 witnesses including the complainant have been examined. He further submitted that it is also correct that the petitioner is not involved in any other case. He has however opposed the grant of bail to the petitioner on the ground that after only 3 days a supplementary statement was got recorded by the complainant by stating that the petitioner had fired upon the deceased.

I have heard the learned counsel for the parties.

The petitioner has faced incarceration for about 2 years and 5 months. The petitioner is not a habitual offender and is not involved in any other case, as per the learned counsel for the parties. Four witnesses including the complainant have been examined. As per the learned counsel for the petitioner different versions have been given by the complainant while making a complaint which became the basis of the FIR and while recording the supplementary statement. Apart from the above, it is not the case of the State that in case the petitioner is released on bail, then he may abscond from justice.

Therefore, considering the aforesaid facts and circumstances especially the custody of the petitioner, this Court deems it fit and proper to grant regular bail to the petitioner.

Consequently, the present petition is allowed. The petitioner shall be released on regular bail subject to furnishing bail bonds/surety to the satisfaction of the learned trial Court/Duty Magistrate concerned.

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.”

4. Learned counsel for the State though opposes the prayer for grant of bail but on instructions fairly submits that challan has been presented. He is not in a position to distinguish the case of the petitioner qua the co-accused so far as grant of bail is concerned.

5. Without commenting on the merits of the case, on the basis of parity of petitioner vis-a-vis co-accused so far as grant of bail is concerned and though the investigation is complete conclusion of trial is likely to take

time, the petitioner is granted bail subject to his furnishing bail bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

- 6. The petition is allowed.
- 7. However, it is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

(AVNEESH JHINGAN)
JUDGE

16th December, 2022
Parveen Sharma

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