

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

CRM-M-13603-2023

Date of Decision:-21.07.2023

Ajay @ Rahul.

.....Petitioner.

Vs.

State of Haryana.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. B.S. Tewatia, Advocate for the Petitioner.

Mr. Neeraj Poswal, AAG Haryana.

JASJIT SINGH BEDI, J.(ORAL)

The prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.127 dated 22.03.2022 under Sections 323, 307, 506, 34 IPC and Section 3(2) of Public Property (Prevention of Damage) and Section 25 of Arms Act registered at Police Station Gadpuri, District Palwal.

2. The present FIR came to be registered at the instance of Hira Lal son of Ratti Ram who stated that he was working as watchman at the Water Booster for the last 2-1/2 years. While he was at the booster at about 1.30 am, 4/5 boys came to the spot with muffled faces. He (complainant) chased two boys. While he was going back to the room three boys appeared in front of him. One of them fired at him with his weapon hitting his left thigh. When he (complainant) reached inside the room, they broke the glass of the gate and started abusing him (complainant) in front of the gate. After that he called on number 112. An ambulance was also called to the spot and

he was taken to the hospital. The identity of the boys were not known to him. Legal action was sought.

3. The Counsel for the petitioner contends that the petitioner is in custody since 19.10.2022. All the material witnesses have been examined and have turned hostile as is borne out from Annexure P-2 which are statements of Hira Lal son of Ratti Ram, Mahesh son of Hira Lal and Amit son of Hans Raj. He therefore contends that the further incarceration of the petitioner was not required in this situation more so when even in the confessional statements of the accused it was one Mukesh co-accused who is stated to have fired on the complainant with his country made pistol.

4. The Counsel for the State on the other hand has placed on record reply dated 21.07.2023 and while referring to the reply contends that the petitioner is a habitual offender. He is an accused in as many as 07 other cases of different kinds. Therefore, he was not entitled to the concession of bail. Even otherwise one Scorpio Car has been recovered from him. He however concedes that the petitioner is in custody since 19.10.2022 and the material witnesses including the complainant have turned hostile.

5. I have heard learned Counsel for the parties.

6. While it is true that the petitioner is a history sheeter with as many as 07 cases registered against him it is equally true that in the present case all the material witnesses have turned hostile. Whether the remaining evidence is sufficient to convict the accused shall be a matter of adjudication during the trial. At this stage, the further incarceration of the petitioner is not required.

8. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner-**Ajay @ Rahul** son of Sh.

Roshan is ordered to be released on bail to the satisfaction of the Trial

Court/Duty Magistrate concerned.

9. The petitioner shall appear on the first Monday of every month before the police station concerned till the conclusion of the trial and furnish an affidavit each time that he is not involved in any other case other than the present case.
10. In addition, the petitioner (or someone on his behalf) shall prepare an FDR in the sum of Rs.50,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from Trial without sufficient cause.
11. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

July 21, 2023
Vinay

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