

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-30206-2021
Date of Decision: May 11, 2023

VIKRAM @ BAZIGAR Petitioner
Versus
STATE OF HARYANA Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Sandeep Singh Jattan, Advocate for the petitioner.
Mr. Ramesh Kumar Ambavta, A.A.G., Haryana.

HARKESH MANUJA, J. (ORAL)

1. By way of present petition filed under Section 439 CrPC, prayer has been made for grant of bail in case FIR No.110 dated 07.08.2014 registered under sections 148, 149, 323, 307, 302, 212, 216 and 120-B IPC & Section 25 of Arms Act at P.S. Barara.
2. As per the allegations levelled in the FIR, the petitioner along with other accused fired gun-shots at the complainants.
3. In the present case, learned counsel for petitioner submits that the petitioner has already suffered incarceration for a period of more than 4 years and investigation already stands concluded with the filing of challan followed by framing of charges and out of 30 prosecution witnesses only 6 have been examined so far. He further submits that petitioner has not been attributed any injury with respect to deceased Mustaak Ali, though he had been indicted for having inflicted injury upon the injured eye-witness namely Ashok-complainant. He further submits that keeping in view the fact that only six witnesses have been examined the trial is likely to take some time, Bhupinder alias Bhuppi who also happened to be an eye-witness has already been

CRM-M-30206-2021**-2-**

examined whereas other eye witness Ashok is not appearing before the Court for his deposition besides, the third one i.e. the injured-Mohit who is no more.

4. On the other hand, learned State counsel vehemently opposes the prayer made in the present petition while submitting that petitioner is involved in two other cases though one under Section 174-A IPC arising out of the same incident as the petitioner was declared as proclaimed offender besides the other one under Sections 323, 506, 148 and 149 IPC wherein the petitioner stands acquitted vide judgment dated 23.12.2022 passed by JMJC Ambala. Learned State counsel further points out that the petitioner was carrying a pistol at the time of incident and fired shot which hit the right arm of Ashok-complainant. He further submits that the trial arising out of this FIR already stands concluded qua 23 accused out of which 9 were acquitted whereas 2 expired during trial and 1 absconded besides 11 having been convicted vide judgment dated 01.08.2019 passed by Court of Addl. Sessions Judge, Ambala.

5. I have heard learned counsel for the parties and gone through the paper-book. I find substance in the submissions made on behalf of the petitioner.

6. In the present case the petitioner though was originally declared as proclaimed offender was later apprehended by the Police and has already suffered incarceration for a period of more than 4 years now and the trial is likely to take some time as out of total of 30 witnesses only 6 have been examined so far. The injured eye-witness-

CRM-M-30206-2021

-3-

complainant namely Bhupinder has already been examined whereas the other eye-witness namely Ashok has not appeared before the trial Court despite bailable warrants having been issued against him which is also one of the reason for the delay in the conclusion of trial. As regards the other case against the petitioner admittedly he has been acquitted in the case arising out of FIR pertaining to Sections 323, 506, 148 and 149 IPC whereas the other FIR under Section 174-A has been an off-shoot of the present case only.

7. Considering the aforesaid facts and circumstances and the custody period in particular besides, the delay being caused in the trial on account of non-appearance of the other eye-witness as well as the fact that in the previous judgment relating to the trial arising out of the same FIR, the injury to the deceased Mustaak Ali has been attributed to Monu @ Shamsheer, Mohit Rana and Sahil Khan, the same has not been attributed to petitioner as well as the fact that the role of the petitioner is yet to be established during trial, I do not find any reason to extend the incarceration of the petitioner.

8. Without commenting upon merits of the present petition, the same is allowed. Petitioner is ordered to be released on bail subject to his furnishing of adequate bail bonds/surety bonds to the satisfaction of the trial Court/Illaqah Magistrate/Duty Magistrate.

11.05.2023
Tejwinder

(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned	Yes/No
---------------------------	--------