

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

225

CRM-M-26522-2022(O&M)

Date of decision: 05.09.2023

Vikas

...Petitioner

Versus

State of Haryana

..Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Pankaj Nanhera, Advocate for the petitioner.

Mr. Baljinder Singh Virk, Sr. DAG, Haryana.

Mr. Vijay Pal, Advocate for the complainant.

AMAN CHAUDHARY, J.

1. Prayer in the present petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in FIR No.53 dated 12.02.2022, registered under Sections 307, 323, 324, 379-B, 506, 120-B, 34 IPC and Section 25 of Arms Act (Section 379-B IPC, Section 25 of the Arms Act were deleted and Sections 25(1-B)(a), 29 of the Arms Act and Section 326 IPC added later on), at Police Station Agroha, District Hisar.

2. Learned counsel contends that the petitioner is in custody for 1 year and 6 months. The allegations against the petitioner are of having fired a shot from the pistol however, the same did not hit anyone and was not recovered from him but from co-accused Ajay. No injury is attributed to the petitioner. There is an injury that as inflicted thereafter by one co-accused Shinder with kirpan on the head and hand of the complainant and another injury was attributed to co-accused Ajay on the leg, however, the

said injuries attract the offence only under Section 326 IPC and not 307 IPC. The injury has initially been opined by the doctor in the private hospital to be simple however one month thereafter, by the same very private hospital, one inflicted on the leg was declared to be grievous. He is not involved in any other case under the IPC. All co-accused have been granted regular bail vide orders dated 04.07.2022 and 16.01.2023, Annexures P2 and P3. Though charges were framed on 01.11.2022 and only 5 witnesses have been examined out of 18. The complainant is however, not coming forward for examination.

3. The custody certificate dated 04.09.2023, filed by learned State counsel is taken on record, as per which, the petitioner is behind bars for 1 year, 5 months and 26 days.

4. Learned State counsel opposes the bail on the ground that the petitioner had actively participated in the commission of offence. He is however unable to controvert the submissions made regarding the stage of the trial, petitioner not being involved in any other case under the IPC and co-accused have been granted regular bail.

5. Heard.

6. Considering the facts and circumstances of the case, in particular that the petitioner is in custody for last 1 year, 5 months and 26 days; not involved in any other case under the IPC; no injury is stated to be caused by him; nothing has been recovered from him; co-accused have been granted regular bail; though charges were framed on 01.11.2022 however, out of 18 witnesses, only 5 have been examined so far; the trial is likely to take a considerable time, thus his further incarceration would

not serve any useful purpose, the present petition for grant of regular bail deserves to be allowed.

7. As a result, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate concerned and subject to his not being required in any other case. The petitioner shall abide by the following conditions:-

- (i) The petitioner will not tamper with the evidence during the trial.
- (ii) The petitioner will not pressurize/ intimidate the prosecution witnesses.
- (iii) The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.
- (iv) The petitioner shall not commit an offence similar to the offence of which, he is an accused, or for commission of which he is suspected of.
- (v) The petitioner shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.
- (vi) The petitioner shall not in any manner misuse his liberty.
- (vii) The petitioner shall furnish his address and mobile number to the Trial Court forthwith and shall not change the same till the conclusion of the trial and in case for any reason, the petitioner seeks to change any of the aforesaid, the same shall be done only with prior intimation to the learned Trial Court, stating the reason for the same.
- (viii) The petitioner shall not leave the country without prior permission of the trial Court.
- (ix) The trial Court/Duty Magistrate may impose any other condition, as deemed appropriate while releasing the petitioner.

8. It is made abundantly clear that in case there is any breach of

the aforesaid conditions, the State shall be at liberty to seek cancellation of bail as granted to the petitioner by this order.

9. In view of the above, it is clarified that the observations made herein are limited for the purpose of present proceedings and would not be construed as an opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

05.09.2023
ashok

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No