

2023:PHHC:144793

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

**CRM-M-45868-2023
Date of Decision:15.11.2023**

Irshad @ Riyasat Ali

...Petitioner

vs.

State of Haryana

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. Akshit Aggarwal, Advocate
for the petitioner.

Ms. Sheenu Sura, Deputy Advocate General, Haryana.

Mr. Sandeep Sharma, Advocate
for the complainant.

N.S.Shekhawat J. (Oral)

1. Reply by way of an affidavit of Deputy Superintendent of Police, Head Quarter, Yamuna Nagar has been filed on behalf of respondent-State and the same is taken on record.

2. The petitioner has filed the instant petition under Section 439 Cr.PC with a prayer to grant regular bail in case FIR No. 417 dated 22.08.2023, under Sections 148,149,307,323,427,120-B of IPC and Section 25 Arms Act, registered at Police Station Sadar Yamuna Nagar, Yamunanagar (Annexure P-1).

3. Learned counsel for the petitioner contends that even though the petitioner has been named in the FIR, but there is no specific attribution to the present petitioner. Even the offence under Section 307 IPC was added in the present case, but the injury, which attracted the offence under Section 307 IPC

is not attributed to the present petitioner. During the course of investigation, a *danda* was allegedly recovered from the present petitiower. He next contends that in the present case, even though it has been alleged that the co-accused Irshad son of Aliyas had fired a shot, however, no one had suffered the firm arm injuries in the present case. Learned counsel further contends that the petitioner is in custody since 25.08.2023 and the challan has already been presented before the Area Magistrate. Thus, the trial of the case may take quite a long time.

4. On the other hand, learned State counsel assisted by learned counsel for the complainant have vehemently opposed the submissions made by learned counsel for the petitioner on the ground that the petitioner has been specifically named in the FIR and had participated in the commission of crime with the other co-accused. Learned State counsel also submits that the petitioner is also facing prosecution in more case i.e FIR No. 246 dated 18.11.2016 registered under Sections 148,149,323,325,427,506,307 of IPC, Police Station Sadar Yamuna Nagar.

5. In reply to the above submissions, learned counsel for the petitioner submits that the petitioner has already been granted the concession of anticipatory bail in the above said case by the Court of Additional Sessions Judge, Yamuna Nagar at Jagadhari on 01.04.2017.

6. I have heard the learned counsel for the parties and perused the record

7. Even though the presence of petitioner is shown at the place of occurrence, however, there is no specific attribution to him in the FIR. Still further, he is in custody since 25.08.2023 and the trial is yet to commence

formally before the Trial Court. Even though there is one more case against the present petitioner, however, he is on bail in the said case.

8. Without commenting on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail pending trial on his furnishing bail bonds and surety to the satisfaction of the concerned trial Court/ Duty Magistrate/Chief Judicial Magistrate subject to the following conditions:-

(i) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him to disclose such facts to the Court or to any other authority.

(ii) The petitioner shall remain present before the Court on the dates fixed for hearing of the case.

(iii) The petitioner shall not absent himself from the Court proceedings except on the prior permission of the Court concerned.

(iv) The petitioner shall surrender his passport, if any, (if already not surrendered), and in case he is not holder of the same, he shall swear an affidavit to that effect.

(v) The petitioner shall also file his affidavit before the concerned Court, mentioning his ordinary place of residence and number of mobile phone, which shall be used by him during the pendency of the trial. In case of change of place of residence/mobile number, he shall share the details with the concerned Court/learned Trial Court.

(vi) In case, the petitioner is involved in any other criminal

activity, during the pendency of the trial, it shall be viewed seriously.

(vii) The concerned Court may insist on two heavy local sureties and may also impose any other condition, in accordance with law, while accepting the bails bonds and surety bonds of the petitioner.

9. In case, the petitioner violates any of the conditions mentioned above, it shall be viewed seriously and the concession of bail granted to him shall be liable to be cancelled and the prosecution shall be at liberty to move an application in this regard.

15.11.2023
hitesh

(N.S.SHEKHAWAT)
JUDGE

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