

PARVINDER ALIAS CHEEMA

.....Petitioner

Versus

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. V.B. Godara, Advocate for the petitioner.
Mr. Rajiv Sidhu, DAG, Haryana.

HARKESH MANUJA, J. (ORAL)

1. By way of present petition filed under Section 439 CrPC, prayer has been made for grant of regular bail in case FIR No.105 dated 31.03.2021 registered under Sections 302, 120-B, 506, 201 and 34 of IPC & Sections 25/27 of Arms Act at P.S. Asaudha, District Jhajjar wherein, the petitioner has been implicated for having fired a gun-shot at the deceased resulting into his death and recovery of gun having been effected from hm.
2. Learned counsel for the petitioner submits that the petitioner was never named in the FIR but was implicated on the basis of disclosure statement made by co-accused namely Deepak. He also points out that though, recovery of gun was effected from the petitioner, however, no conclusive opinion regarding the same matching with the bullet recovered from the spot was made by the Forensic Laboratory in the FSL Report. He further submits that PWs No.3 and 4 have even been declared hostile having not supported the prosecution case.
3. Learned State counsel vehemently opposes the prayer made herein while submitting that the implication of the petitioner in the

FIR was clearly established as the gun used in the incident was recovered from the petitioner. Learned State counsel also submits that the petitioner was involved in 9 more cases of serious nature involving the provisions of IPC and Arms Act including Sections 302/307 of IPC. It was for this reason that the witnesses did not support the prosecution version as they had apprehensions from the petitioner and his other co-accused. He also points out that there was sufficient evidence in the shape of official witnesses so as to establish the implication of the petitioner in the case in hand.

4. I have heard learned counsel for the parties and gone through the paper book. I am unable to find substance in the submissions made on behalf of the petitioner.

5. In the present case, even complainant has specifically named Deepak along with two other persons who have covered their faces. Co-accused namely, Deepak in his disclosure statement named the present petitioner. Even recovery of gun used in the offence in hand has been duly effected from the petitioner in pursuance to the disclosure statement made by his co-accused namely Deepak, implicating the petitioner. Merely because the report of FSL does not provide any conclusive opinion regarding matching the bullets recovered from the spot and the gun recovered from the petitioner, petitioner cannot claim any benefit at this stage.

6. Moreover, the petitioner is involved in 9 other following cases:-

- i) FIR No. 737 dated 12.10.2020 u/s 148, 332, 353, 307 read with Section 149 IPC, P.S. Sadar Hisar.

- ii) FIR No. 133 dated 21.10.2020, u/s 395, 397,201 read with Section 120 IPC and 25 of Arms Act, P.S. Machhrauli.
- iii) FIR No.36 dated 10.03.2021, under Sections 379-B, 34 IPC and 25 of Arms Act, Police Station Machhroli, District Jhajjar.
- iv) FIR No. 69 dated 31.03.2021, u/s 25 of Arms Act, P.S. Farrukhnagar.
- v) FIR No. 81 dated 28.03.2021, u/s 302 read with Section 34 IPC, P.S. Dujana.
- vi) FIR No.272 dated 13.08.2022, under Sections 307, 285, 506, 120-B IPC & 25 of Arms Act, Police Station Asaudha, District Jhajjar.
- vii) FIR No. 419 dated 23.09.2021, u/s 323, 307 read with Section 34 IPC, P.S. Civil Line Hisar.
- viii) FIR No. 610 dated 21.12.2021, u/s 195-A, 506 read with Section 34 IPC & Arms Act, P.S. Asaudha.
- ix) FIR No.275 dated 26.08.2020, under Sections 302, 120-B, 34 of the IPC & 25 of Arms Act, Police Station Beri, District Jhajjar.

7. Considering the aforementioned antecedents of the petitioner wherein he is involved in 9 more cases including the provisions of Section 302/307 IPC, he does not deserve the concession of regular bail at this stage merely for the reason that the independent/eye witness did not support the prosecution case as the same can even be established from the impartial evidence of the official witnesses as well which is yet to be recorded in due course.

8. In view of the aforesaid facts and circumstances, this Court does not find any reason to grant the concession of bail to the petitioner and thus, the present petitions stands dismissed.

18.04.2024
Tejwinder

(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No