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

**CRM-M-24428-2024 (O&M)
Date of Decision: 14.08.2024**

Parmod alias Panna

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. S.S. Nain, Advocate,
for the petitioner.

Ms. Dimple Jain, DAG, Haryana.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present is a second petition filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case bearing FIR No.143 dated 30.07.2021, under Sections 307, 120-B IPC (Section 506 IPC added later on) and Sections 25(1-b) (a), 27(1), 29(b) of the Arms Act, 1959, registered at Police Station Sohna, Gurugram, District Gurugram.

2. It has been submitted by the learned counsel for the petitioner that the petitioner is in custody for 2 years, 10 months and 16 days and 17 out of 20 cited witnesses have already been examined including all the material witnesses. He further submitted that the allegations against the petitioner as so reflected in the FIR is that the complainant stated before the police that the petitioner, who has been named in the FIR fired a shot at his brother with a country made pistol which hit him below his left eye and thereafter, his brother



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got injured and the reason behind the same was that allegedly the petitioner had molested the daughter of his brother and had also threatened that he will shoot him one day and take away his daughter. The translated version of the FIR as so attached in the petition as Annexure P-1 is reproduced as under:-

“To, The SHO, Police Station Sohna, Gurugram, respected Sir, it is requested that I, Deshraj of Gyasi Ram permanent resident member of village Damdama, Police Station Sadar Sohna, District Gurugram. On dated 30.07.2021 around 9:00 AM of morning my brother namely Dinesh son of Gyasi Ram was bathing his buffolo and I was also standing there. Suddenly a mischievous boy namely Pramod son of Hari Ram resident member of village Damdama, Police Station Sadar Sohna, District Gurugram came there and started abusing my brother. Aforesaid accused caused gunshot injury by country made pistol to my brother below the eye and Pramod is mischievous hay and against the aforesaid accused we have registered another FIR No.131/2019, wherein he is on bail. Pramod molests my brother's daughter again and again and threatened my brother one day I will shoot you and took your daughter and we have reported the aforesaid matter to his father Hari Ram son of Jeetram and his brother Gajender son of Jeetram resident of Village Damdama, Police Station Sadar Sohna and aforementioned said whatever parmod is doing, he is doing correctly. He will do same in future too and you can do whatever you like and we are with our brother and today aforesaid Pramod caused gunshot injury to my brother and fled away from the spot and thereafter I took my brother and today aforesaid Pramod caused gunshot injury to my brother and fled away from the spot thereafter I took my brother to government



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hospital Sohna for treatment purpose and admitted there. After that Dr. Sahah prepared MLC of my brother and further referred my brother to higher center to GH, Gurugram for treatment and we have admitted him in Samvit hospital. Today I am giving my complaint in writing and strict legal action be initiated against the aforesaid accused. Applicant Deshraj Mobile No. 98106 46457. Today on dated 30.07.2021 police control room Gurugram received information that Dinesh Kumar son of Shri Gyasi Ram resident member of village Damdama, police station Sadar Sohna District Gurugram caused gunshot injury b Pramod son of Hari resident member of village Damdama For the purpose of legal action Investigating officer be sent on the spot then 1. Sub-inspector, Bir Chand 597, Yadvender with government vehicle driver HC Devdutt reached the place of occurrence at village Damdama and injured person Dinesh Kumar was not present there and people stated thi Ils brother Deshraj took him government hospital Sohna for treatment and on this information I went to government hospital Sohna with fellow police officials and received Rukka and MLR No NK/85/2021/SDH Sohna dated 30.07.2021 of injured person Dinesh Kumar and Dr. Sahab stated 1 injury as "injury over left eye bleeding present from eye redness present over both eyelids H/O gunshot expanding by attendance Adv. Opthal Opinion KU and referred the injured to GH, Sector-10A CCM. After this 1, SI contacted to the brother of injured namely Deshraj and he stated that I took my brother to government hospital, Gurugram and then admitted him in Samvit health care hospital at Islampur, Gurugram on this Information I reached Samvit health care hospital Islampur, Gurugram with fellow police



officials and we found him admitted in hospital. For the purpose of recording the statement of injured in hospital. For the purpose of recording the statement of injured we moved an application before Dr. in writing and Dr. Sahab declared him unfit for statement.”

3. Learned counsel for the petitioner has raised an argument that considering the custody of the petitioner and the stage of the trial whereby all the material witnesses have been examined, the petitioner may be considered for grant of regular bail. He further submitted that it is a settled law that ‘*bail is a rule, jail is an exception*’. He further raised an argument that since there is no FSL report matching in the present case, that may also be considered for the purpose of grant of regular bail. He further submitted that the petitioner was also implicated in two more cases by the father of the girl under the POCSO Act but he has since been acquitted in those cases.

4. On the other hand, Ms. Dimple Jain, learned DAG, Haryana has vehemently opposed the grant of bail to the petitioner and submitted that it is a case where although the custody of the petitioner is 2 years, 10 months and 16 days but considering the gravity and seriousness of the offence, the petitioner does not deserve the concession of regular bail. She further submitted that even otherwise also, the trial is at its fag end and 17 out of 20 total cited witnesses, have already been examined and now the next date fixed before the trial Court is 28.08.2024. While referring to the allegations contained in the FIR, she submitted that the allegations were serious in nature to the extent that the petitioner was used to molest the daughter of the brother of the complainant and had also been threatening his brother from time to time that he will kill him



and thereafter, he had fired a shot below the eye of his brother with a country made pistol with a motive to kill him.

5. Learned State Counsel further submitted that there is a strong apprehension that in case the petitioner is released on bail, then he may not only repeat the offence but may also abscond or flee from justice considering the aforesaid facts and circumstances and therefore, the mere fact that the petitioner has faced incarceration for 2 years, 10 months and 16 days, he does not deserve the concession of regular bail.

6. I have heard the learned counsels for the parties.

7. The custody of the petitioner comes out to be 2 years, 10 months and 16 days and the trial is at its fag end because 17 out of 20 total cited witnesses have already been examined. Learned counsel for the petitioner has argued that considering the long custody of the petitioner, the principle of '*bail is a rule, jail is an exception*' is to be applied. However, this Court is of the considered opinion that there is no doubt that the bail is always a rule and jail is an exception but the facts and circumstances of the present case suggest that the present case falls in the exception and not under the rule. The gravity of the aforesaid offence and the direct role attributed to the petitioner even as per the FIR, would disentitle him for grant of regular bail. So far as the non-matching of the FSL report is concerned, that would not become a ground for grant of bail, considering the aforesaid peculiar facts and circumstances and also it is a matter of fact which is to be seen at the time of trial. Therefore, considering the gravity of the offence, the role attributed to the petitioner and the strong apprehension expressed by the learned State Counsel, this Court does not deem it fit and proper to grant regular bail to the petitioner.

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8. Consequently, finding no merit in the present petition, the same is hereby dismissed.

9. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of present petition.

10. Since the present petition has already been dismissed, all the pending applications also stand disposed of.

14.08.2024*Bhumika***(JASGURPREET SINGH PURI)
JUDGE**

1. Whether speaking/reasoned	Yes/No
2. Whether reportable:	Yes/No