

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

CRM-M-38667-2023
Reserved on: 18.03.2025
Pronounced on: 28.03.2025

Yogendra @ Vishnu ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Imtiyaz Hussain, Advocate
for the petitioner.

Mr. Naveen K. Sheoran, D.A.G., Haryana.

Mr. Aman Yadav, Advocate for
Mr. P.S. Chauhan, Advocate
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
101	22.05.2021	Sector-6, Dharuhera	302, 118, 120-B IPC and 25 of Arms Act

1. The petitioner incarcerated in the FIR captioned above came before this Court under Section 439 CrPC seeking regular bail.
2. In the bail application, the petitioner is silent about criminal antecedents.
3. The facts and allegations are taken from the translated copy of the FIR reproduced in para No.2 of the bail petition, which reads as follows:

“Brief facts of the prosecution case are that on 22.5.2021, complainant Rocky moved a written complaint before the police in which he alleged that on 22.5.2021 at about 8-00 p.m. when he along with his brother Kanwar Singh were sitting in front of their houses then accused Ajay, Gullu, Vishal, Sunnu and Ajay reached there and they started firing upon his brother Kanwar Singh and thereafter, they all fled away from the spot. The injured was brought to Sheela Hospital, Dharuhera where the concerned doctor declared him brought-dead. During investigation, accused Khem Chand and Naveen were arrested on 23.5.2021. During interrogation, accused Khem Chand suffered disclosure statement admitting his involvement as well as involvement of accused Vishal, Ajay. Pritam and Naveen in the present case. Based on disclosure statement suffered by accused Khem Chand, accused Vishal, Pritam and

Ajay were arrested in this case. During interrogation, accused Vishal suffered his disclosure statement in which he disclosed to the police that he had hatched a criminal conspiracy with applicant-accused Yogender alias Vishnu to commit the murder of deceased Kanwar Singh and he further disclosed that applicant-accused had also provided him two country made pistols and 13 live cartridges for this purpose. Thereafter, the applicant-accused Yogender alias Vishu was arrested on 25.5.2021 by the police in this case and the applicant-accused Yogender has also confessed his guilt in his disclosure statement. After completion of investigation, police submitted the challan against the applicant-accused under section 302 read with section 120B IPC and Arms Act.”

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.

5. The State's counsel opposes bail and refers to the status report.

6. Counsel for the petitioner made the following arguments:-

- i. Name of the petitioner came in second disclosure statement of co-accused.
- ii. Not named in FIR.
- iii. There is no evidence of petitioner being part of conspiracy.
- iv. Allegations against the petitioner were of supplying pistol.
- v. The enmity is not proved.
- vi. At the time of incident, petitioner was not present at the town.
- vii. There is no evidence of petitioner hatching conspiracy.

7. State counsel has referred to paras no.6 and 7 of reply dated 15.01.2024 which reads as follows:

“6- That on dated 27-05-2021, petitioner was arrested in the present case and during the course of the interrogation he admitted his involvement in the present crime and suffered his disclosure statement wherein, he had admitted that I have a previous enmity with the deceased regarding selling of illegal liquor as well as money transaction between each other therefore, petitioner had provided one country made pistol and ten cartage along with a dummy pistol from a person namely Bhurekha R/o Mathura who's complete address is not known to him. This facts itself shows and suggest that petitioner had played an active role in the present crime. However, challan under section 173 Cr.P.C. was prepared under section 118,120-B,302 IPC & 25,29 of Arms Act against the petitioner and other co-accused in the present case and the challan was prepared on 18-08-2021. Copy of the English Translation of the disclosure statement of the petitioner and co-accused Vishal have already been attached with this petition.

7- That there are total 27 prosecution witnesses cited in the present case and out of which 19 prosecution witnesses have already been examined and 2 prosecution witnesses have given up and the material eye witnesses namely Rocky Yadav and Deepak are yet to be examined and if

the petitioner may be released on bail he may pressurize the said witnesses.”

8. An analysis of the evidence collected so far points out towards previous enmity regarding sale of liquor which was sufficient motive. Regarding the conspiracy, it is always hatched in secrecy and the evidence is rarely coming to forefront and apparent and rather it has been derived from the attending circumstances. In addition to the motive and enmity, there is evidence of petitioner supplying weapon of offence which would point out towards his involvement. At this an advanced stage of trial, the observations made by this Court shall either prejudice the case of the petitioner or prosecution, thus this Court is refraining from making any further comments.

9. Given the fact that trial is at fag end, trial Court is requested to further expedite the hearing of the matter.

10. A perusal of the bail petition and the documents attached prima facie points towards the petitioner's involvement and does not make out a case for bail. The impact of crime would not justify bail. Any further discussions will likely prejudice the petitioner; this court refrains from doing so.

11. The petitioner's custody of around 04 years cannot be termed prolonged, given the minimum sentence prescribed for the offense, which is life imprisonment.

12. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

13. **Petition dismissed.** All pending applications, if any, are disposed of.

(ANOOP CHITKARA)
JUDGE

28.03.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.