

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

Crl.Misc. No.M-23402 of 2015
Date of Decision : 13.8.2015

Deepak

.....Petitioner

Vs.

State of Haryana

.....Respondent

...

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

...

Present : Mr. Sajjan Singh Malik, Advocate for the petitioner.
Mr. M.K. Sangwan, DAG, Haryana.

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1. To be referred to the Reporter or not ?
2. Whether the judgement should be reported in Digest ?

RAMESHWAR SINGH MALIK, J

Petitioner seeks bail pending trial in FIR No.95 dated 27.2.2014 under Sections 365, 216, 302, 120-B, 201 and 420 IPC registered at Police Station Sadar Rohtak, Distt. Rohtak.

In compliance of the order dated 24.7.2015 passed by this court, affidavit dated 13.8.2015 of Deputy Superintendent of Police, Rohtak filed in the court today is taken on record and copy thereof has been supplied to learned counsel for the petitioner.

Learned counsel for the petitioner submits that since the petitioner was not named in the FIR, there was no scope of levelling any allegation against him. Participation of the petitioner in the commission of crime has not been established in the present case and it will be a moot point before the learned trial

court, whether the petitioner, as a matter of fact, actually participated in the crime or not. He further submits that since another accused has been recently arrested and because of that reason de novo trial shall start, conclusion thereof will take some time. He prays for allowing the present petition.

On the other hand, learned counsel for the State on instructions from ASI Harinder, Police Station Sadar, Rohtak, submits that in view of the affidavit dated 13.8.2015, one co-accused of the petitioner has suffered a disclosure statement before the police, wherein he disclosed the name of the petitioner. Thereafter, even petitioner has suffered a confessional statement before the police about his involvement in the crime. In this view of the matter, he prays for dismissal of the present petition.

Having heard learned counsel for the parties at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the contentions raised, this court is of the considered opinion that in the peculiar facts and circumstances of the case, referred to herein above, petitioner has been found entitled for bail pending trial. It is so said because petitioner was not named in the FIR. Pursuant to the alleged disclosure statement made by one of the co-accused, no recovery has been effected from the petitioner. Confessional statement of the petitioner before the police as well as disclosure statement made by his co-accused before the police will be considered by the learned trial court during the course of trial, appreciating the evidentiary value thereof, if any. Since the de novo trial is likely to be conducted after arrest of another accused, conclusion thereof will take some time.

In view of the above and without commenting anything further on the merits of the case, lest it should prejudice the rights of either of the parties,

instant petition is allowed. Petitioner is directed to be released on bail pending trial, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the learned trial court.

Disposed of, accordingly.

13.8.2015
GS

(RAMESHWAR SINGH MALIK)
JUDGE