

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

CRM-M-32182 of 2015(O&M)
Date of decision : 12.10.2015

Balbir Chand

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. M. S. Atwal, Advocate for the petitioner.

Ms. Harsimrat Rai, DAG, Punjab
assisted with HC Gurjinder Singh

JITENDRA CHAUHAN, J. (Oral)

The present petition has been filed under Section 439 of the Code of Criminal Procedure (for short, 'the Cr.P.C.') seeking regular bail in case FIR No.81 dated 30.05.2009, registered under Sections 382/506/34 of the Indian Penal Code (for short 'IPC') at Police Station Mahilpur, District Hoshiarpur.

The learned counsel for the petitioner, inter alia, contends that the present FIR was registered under Sections 382/506/34 IPC. The petitioner has never misused the concession of bail. However, the father of the petitioner expired on 09.02.2015 after a long illness. Thereafter,

his mother could not bear the shock of death of his husband and she fell seriously sick and is under treatment. The petitioner comes from poorest strata of the society and is a holder of the BPL card. The petitioner did not have the requisite funds to travel to the Court. Therefore, he could not cause appearance before the trial Court and next date of hearing was not communicated by the learned counsel. Accordingly, non appearance is not wilful and intentional but on account of extreme poverty suffered by the petitioner. The co-accused Jaswinder Singh and Harpreet Singh, who suffered trial have been convicted and sentenced by the trial Court for the period of one year and the petitioner has already undergone more than five months.

On the other hand, the learned State counsel does not dispute the factum of death of the father of the petitioner and illness of his mother. However, she states that lenient view cannot be taken as he did not surrender rather he was arrested on 04.06.2015 after declaring proclaimed offender on 07.04.2015. The petitioner is in custody since 04.06.2015 and he is not involved in any other FIR.

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

Keeping in view the totality of the circumstances and the petitioner is a BPL card holder, the plea raised by the petitioner that he could not travel to the Court cannot be said to be without any basis.

Otherwise, also the petitioner is not involved in any other FIR and has undergone more than five months, without adverting to the merits of the instant case, this petition is allowed. The petitioner be admitted to regular bail during pendency of the trial, on his furnishing bail bonds/surety bonds, to the satisfaction of the trial Court.

Anything said herein above shall not be construed as an expression of opinion on the merits of the case.

12.10.2015

ashok

(JITENDRA CHAUHAN)
JUDGE