

CRM-M-9057-2015 (O&M)

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

**CRM-M-9057-2015 (O&M).
Decided on: September 17, 2015.**

Nibbo @ Nawal Kishore

.. Petitioner(s)

VERSUS

State of Haryana

.. Respondent(s)

*** * ***

CORAM: HON'BLE MR.JUSTICE M.M.S.BEDI

*** * ***

**PRESENT Mr.Ravinder Hooda, Advocate,
for the petitioner.**

M.M.S. BEDI, J. (ORAL)

Petitioner was a proclaimed offender while his co-accused stand acquitted.

After the acquittal of his co-accused, the petitioner has sought concession of pre-arrest bail.

I have gone through the allegations against the petitioner and other co-accused. It is the petitioner, who, as a member of an unlawful assembly had allegedly fired at complainant Shishpal. Since the petitioner did not face trial being a proclaimed offender, he could not take advantage of acquittal of his co-accused, especially when the firearm injury is attributed to him.

Counsel for the petitioner has drawn attention of this Court to the cross-examination by the counsel for his co-accused wherein the injured witness had admitted the suggestion

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that the petitioner did not fire at him. It will be a debatable issue whether the defence counsel for other co-accused could have gone beyond the scope of the defence of the accused who were facing trial. The petitioner evaded the process of law for a period of four years, as such, he cannot be granted the concession of pre-arrest bail. He violated the proclamation and the directions of the Court which is an offence under Section 174-A IPC.

Without going into the details of the case on merits, it is sufficient to observe that with the acquittal of co-accused of the petitioner, on the basis of testimony of injured eye-witness, he may be benefitted during the course of trial.

Striking a balance between the right of liberty of the petitioner and the dual version of the prosecution witnesses, it will be expedient, in the interest of justice, in case the petitioner is given an opportunity to surrender before the Court and simultaneously giving opportunity to the prosecution agency to prosecute him in accordance with law. Ends of justice would be met in case a direction is issued to the petitioner to appear before the Illaqua Magistrate on 1.10.2015. It will be open to the prosecution agency to present supplementary challan against the petitioner on said date or on any other date. In case the petitioner moves an application for the grant of bail, he shall be released on bail on 5.10.2015 subject to the satisfaction of the Illaqua Magistrate. The liability of the petitioner as a proclaimed offender will cease to exist on grant of bail to him on

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5.10.2015.

The petition is disposed of accordingly.

It is made clear that in case the petitioner does not comply with this direction, this petition will be deemed to have been dismissed.

(M.M.S.BEDI)
JUDGE

September 17, 2015.
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