

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

CrI.Misc.No.M-9942 of 2015

Date of decision : 30.4.2015

Jagwinder Singh @ Jaggi

....Petitioner

Versus

State of Punjab

...Respondent

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER

....
Present : Mr.Gaurav Mohunta, Advocate
for the petitioner.

Mr. P.J.S.Hundal, AAG, Punjab.

Mr. Sukhdev Singh, Advocate
for the complainant.

.....

MAHESH GROVER, J.

It is a prayer for regular bail.

The petitioner was initially found innocent during the course of investigation but summoned pursuant to Section 319 Cr.P.C. His prayer for regular bail has been declined on the ground that he is likely to tamper with the prosecution evidence.

Learned counsel for the petitioner contends that he is willing to abide by the terms of the trial and that the finding regarding his tampering with the prosecution evidence is not based on any material. Besides, the bail being a matter of right, in the event of the apprehension of the prosecution coming true the petitioner can always be subjected to cancellation of such a

benefit.

Upon consideration of the matter, I am of the opinion that the contention of the petitioner is justified. The petitioner having been found innocent by the police and summoned by the learned trial court in exercise of its jurisdiction under Section 319 Cr.P.C. cannot be presumed to be attempting to tamper with the prosecution evidence unless there is cogent material on record to that effect. Such presumption would arise in each and every case and therefore if accepted per se is likely to defeat the inherent right of an accused to gain access to bail which through numerous observations of the Hon'ble Supreme Court has been held to be a matter of rule and not an exception. Therefore, I am of the considered view that the petitioner ought to be enlarged on bail as in the event of the apprehension of the prosecution coming true and on such material being brought on record, such a concession can always be withdrawn under Section 439(2) Cr.P.C. by testing the material produced by the prosecution in this regard.

Bail to the satisfaction of the learned trial court.

Petition allowed.

30.4.2015

(MAHESH GROVER)
JUDGE

dss