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

CRM-M-27311 of 2016

Date of decision: December 02, 2016

Dilawar

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI

Present: Mr. R.S. Kundu, Advocate for the petitioner.

Mr. Deepak Balyan, Addl. AG Haryana and
Ms. Tanushree Gupta, DAG Haryana.

Mr. Sumeet Goel, Advocate for CBI.

Ms. Rubina Virmani, Advocate for the complainant.

A.B. CHAUDHARI, J (Oral)

Heard learned counsel for the rival parties.

Learned counsel for the CBI who raised preliminary objections that on 06.10.2016 itself, notification has been issued for handing over the investigation in the case in question, to CBI arising out of FIR No.118 dated 27.02.2016, under Sections 148, 149, 186, 188, 124-A, 353, 450, 427, 436, 307, 395, 120-B of Indian Penal Code, 1860, Section 25 of Arms Act, 1959 and Sections 3-4 Prevention of Damage to Public Property Act, 1984, registration at Police Station Urban Estate, Rohtak, District Rohtak and CBI has registered RC No.14 of 2016. The notified CBI Court is Special Judge, CBI for Haryana at Panchkula. According to him, in view of subsequent

development, this petition is not maintainable as the regular bail petition will have to be filed first before the Special Judge, CBI, Panchkula and not directly before this Court.

The objections have been answered by the learned counsel for the petitioner that the CBI may take its own time in investigation etc. and therefore, the liberty of the petitioner cannot be undermined in the manner sought by the CBI and the Haryana Police. On merits, he submits that there is no offence against the petitioner nor any recovery has been made from him and as such, he ought to be released on bail who is in Jail since February 2016. His detention is not necessary at all and hence, prayed for grant of bail.

Per contra, learned State counsel opposing on merits submits that there are two eye witnesses, namely Naveen Dhull and Ram Niwas Hooda who have named the petitioner as a person who has seen performing overt act when the *kothi* of the Captain Abhimanyu, Finance Minister, Haryana was being set on fire. He, therefore, submits that there is no prima-facie case for grant of bail to the petitioner.

At this stage, learned counsel for the petitioner submits that the statements have been recorded in March 2016, i.e. two months after the incident and therefore, no much importance can be given to those statements. He submits that there are contradictory allegations and therefore, no importance can be given to the statements recorded so late.

I have carefully perused the entire record. At the outset, I

find that it is not necessary to address on the preliminary objections raised by the learned counsel for the CBI since I am dealing with the matter on merits.

It is seen from the FIR, statements of those two witnesses, namely Naveen Dhull and Ram Niwas Hooda that the petitioner and others had entered the *kothi* of Captain Abhimanyu, Finance Minister, Haryana and started setting it on fire. The inmates of the house ladies and gents had to take shelter somewhere else and as a matter of fact, entire *kothi* was burnt. The petitioner was seen as a leader of the mob in setting on fire and entering the premises. It is not in dispute that there was order under Section 144 of Code of Criminal Procedure, 1973 at that time. There is thus, ample evidence against the petitioner and in no case, he can be released on bail in the wake of such evidence that of eye witnesses.

Learned State counsel as well as learned counsel for the CBI also pointed out that there is CCTV photographs against the petitioner. At this stage, it is not necessary for me to look into that evidence for which there is mention by the trial Court in its impugned order.

The submission that the statements have been recorded after one month or that there are contradictory reports, cannot be assessed at this stage and that can be seen only at the time of trial before the trial Court. I am afraid whether these submissions can be taken into consideration at this premature stage. Prima-facie, the petitioner was the leader of the mob which indulged into arson, loot

and mischief of burning the *kothi* of Captain Abhimanyu, Finance Minister, Haryana. The offences are serious and there is every likelihood of tampering prosecution witnesses if the petitioner is released on bail.

In that view of the matter, the prayer for grant of regular bail to the petitioner, is rejected.

Petition stands dismissed, accordingly.

After pronouncement of the order, learned counsel for the petitioner has prayed for withdrawal of the petition. In view of the decision on merits rendered above and in view of the peculiar facts of the case, I think the petitioner cannot be allowed to withdraw the petition. Hence, prayer for withdrawal of the petition, is rejected.

(A.B. CHAUDHARI)
JUDGE

December 02, 2016

mahavir

Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No