

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

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**CRM-M-33397-2015
Date of decision:14.01.2016**

Saif

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present: Mr. K.S.Dadwal, Advocate
for the petitioner.

Mr.R.S.Randhawa, Addl.A.G., Punjab.

...

TEJINDER SINGH DHINDSA, J.

This order shall dispose of the present petition filed under section 439 Cr.P.C. seeking benefit of regular bail pending trial in case FIR No.89 dated 28.09.2012 under Sections 458/460/380/411 IPC, registered at Police Station Kahnwan, District Pathankot.

Counsel for the parties have been heard.

FIR in question was registered on the statement of Bikramjit Singh. Occurrence is alleged to be of the intervening night of 25/26.09.2012. Complainant has alleged that while he was sleeping, some noise was heard in the adjoining room and upon going there, he found three assailants, out of which two fled away through grill, while with one he grappled and managed to nab him. As per complainant, such assailant disclosed his name as Ram Deen. In the meanwhile, father of the complainant also entered the room and taking advantage of the situation, Ram Deen managed to escape. Specific allegations are with regard to the

theft of Rs.20,000/- from a Godrej almirah as also the complainant having been given punches by Ram Deen.

It so transpires that during the course of investigation, one Gamidin was arrested. The present petitioner is sought to be implicated on the disclosure statement of such Gamidin.

Present petition seeking benefit of regular bail is opposed by learned State counsel by submitting that in the identification parade conducted, the complainant has even identified the present petitioner.

It has further been contended that the petitioner does not deserve the benefit of bail as he had evaded the process of law and had been declared as a proclaimed offender.

This Court is of the considered view that the petitioner is entitled to the concession of regular bail.

The petitioner was arrested on 09.06.2015. His name did not even figure in the FIR. The injuries suffered by the complainant are specifically attributed to co-accused and not to the present petitioner. Counsel appearing for the petitioner during the course of arguments has even adverted to the documents placed on record as Annexures P-4 to P-7 that even prior to the occurrence in question, a close relative of Gamidin had sought to implicate the present petitioner in certain criminal proceedings and which upon investigation were found to be false.

I find merit in the contention raised by the counsel that under such circumstances, the disclosure statement of Gamidin on the basis of which the present petitioner is sought to be implicated be viewed with suspicion.

As such, without making any observation on merits and keeping in view the length of incarceration already suffered by the petitioner, he is held entitled to the benefit of bail.

Petition is allowed. Petitioner be enlarged on bail subject to the satisfaction of the trial Court/Duty Magistrate, Pathankot.

It is clarified that the observations contained in this order are confined only as regards the consideration of the prayer of the petitioner for grant of benefit of bail and would have no bearing on the merit of the case.

Disposed of.

14.01.2016

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**(TEJINDER SINGH DHINDSA)
JUDGE**