

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM No. M-43032 of 2015 (O&M)
Date of Decision: 29.02.2016

Jai Dev @ Dhola & another

--Petitioners

Versus

State of Haryana

--Respondent

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

Present:- Mr. Bipan Ghai, Sr. Advocate with
Mr. Mandeep Kaushik, Advocate for the petitioners.

Mr. Vivek Saini, D.A.G., Haryana.

TEJINDER SINGH DHINDSA.J

This order shall dispose of the present petition filed under Section 439 Cr.P.C seeking the benefit of regular bail to the petitioner in case F.I.R. No.163 dated 12.6.2006 under sections 148, 302, 307, 449, 149, 120-B, 216 I.P.C registered at Police Station, Sadar, District Rohtak.

Learned counsel for the parties have been heard.

As per prosecution version, the present petitioners along with co-accused Suraj Bhan @ Bhera allegedly committed murder of Prem, Rajesh, Thandi Ram and Amarjit on the intervening night of 11/12.6.2006 by firing gun shots.

It has gone uncontroverted that Jai Dev i.e. petitioner no.1 herein was granted benefit of bail by the Trial Court in the light of order dated 24.11.2006 at Annexure P-2 by observing that a certificate had been issued by the Dy.S.P, Tihar Jail, New Delhi showing Jai Dev to be confined in jail w.e.f. 8.6.2006 to 16.6.2006 in connection with another criminal case. In so far as petitioner no.2 Harminder is concerned, he was granted benefit of regular bail by this Court in the light of order dated 1.5.2007 passed in CRM No. 13157-M of 2007 by observing that during the investigation,

police had come to a conclusion that he was also not present at the time of occurrence.

In the trial that ensued present petitioners as also co-accused Suraj Bhan @ Bhera came to be convicted but in appeal the matter was remanded back vide order dated 24.8.2015, passed by a Division Bench of this Court.

Learned senior counsel appearing for the petitioners has referred to the observations made by the Division Bench of this Court and the operative part of the order dated 24.8.2015 to contend that it would be a re-trial and a conclusion thereof would take time and as such the petitioners are entitled to bail pending trial.

It has also gone uncontroverted that co-accused Suraj Bhan @ Bhera and against whom there were similar allegations and who is identically placed, has been granted benefit of bail by this Court in the light of order dated 15.12.2015 passed in CRM No. M-41731 of 2015.

The length of incarceration of petitioner is stated to be 4 years and 2 months approximately and that of petitioner no.2 Harinder Singh is in excess of 4 ½ years.

In view of the above, coupled with the length of incarceration already suffered by the petitioners and without making any observations on merits, present petition is allowed. Petitioners be enlarged on bail subject to satisfaction of C.J.M./Duty Magistrate, Rohtak.

Petition disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

29.02.2016
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