

*IN THE HIGH COURT FOR THE STATES OF PUNJAB
AND HARYANA AT CHANDIGARH.*

Cr. Misc. M 43908 of 2015
Date of decision: 4.4.2016

Virender

Petitioner

vs.

State of Haryana

Respondent

Present: Mr. Navmohit Singh, Advocate.
Mr. CS Bakshi, Addl.A.G. Hry

M.M.S.BEDI,J.

The petitioner along with Balbir, Mahender, Jai Bhagwan and Bijender Singh Dabla was accused of murder of Tanna, committed in June, 2008. The co-accused of the petitioner Balbir, Mahender and Jai Bhagwan were acquitted on 12.2.2009, whereas Bijender Singh Dabla has also been acquitted on 5.2.2010 as the complainant and other eye witnesses had turned hostile and did not support the case of the prosecution.

Counsel for the State, on the instructions of ASI Surender Singh submits that the petitioner has joined the investigation pursuant to the interim order passed by this court but recovery of the weapon i.e. Danda, alleged to have been used by the petitioner, is to be made.

I have considered the facts and circumstances of the case. Without expression of any opinion regarding the culpability of the petitioner in view of the two judgments of acquittal passed qua the co-accused of the petitioner, I am of the opinion that the petitioner, no doubt, had been declared a proclaimed offender but he has challenged the order declaring him proclaimed offender by filing a petition before this court. Merely because the petitioner has been declared a proclaimed offender, he can

not be denied the concession of pre-arrest bail, ignoring the fact his co-accused, after trial have been acquitted. The evidence against the petitioner is in the shape of a statement of co-accused Bijender Singh, who himself has been acquitted, as mentioned herein above. As a penalty measure sending him behind bars will not be appropriate in the peculiar circumstances of the case.

The petition is allowed and it is ordered that in case of arrest of the petitioners, he will be released on bail to the satisfaction of the arresting officer subject to the condition that he will join the investigation as and when required by the police and will not tamper with evidence or hamper the investigation. He will not delay the proceedings by adopting the delaying tactics. The petitioner will not leave India without the permission of the court. It will be open to the prosecution agency to present supplementary challan against the petitioner.

April 4 ,2016
TSM

(M.M.S.BEDI)
JUDGE