

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

Hemlata
2017.12.11 17:35
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CRM-M-44746-2017(O&M)

Date of decision: 11.12.2017.

Gokul @ Karam Chand

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr.Rajesh Bansal, Advocate
for the petitioner.

Ms. Harpreet Kaur, AAG, Haryana.

ARVIND SINGH SANGWAN, J. (ORAL)

This is a petition under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 5, dated 01.01.2017, under Section 392 IPC (Section 201, 397, 34 of IPC added later on), registered at Police Station Gharaunda, District Karnal (Annexure P-1).

Learned counsel for the petitioner submits that the petitioner is in judicial custody since 20.03.2017. He further submits that co-accused- Purshotam @ Rustam has already been granted concession of regular bail, vide order dated 21.09.2017 in CRM-M-29918-2017 (Annexure P-4) and other co-accused, namely, Rahul @ Monu has also been granted regular bail vide order dated 27.10.2017 in CRM-M-25552-2017. The operative part of the order dated 27.10.2017 is reproduced as under:-

“ Contends that the petitioner was arrested in the present FIR on the basis of the disclosure statement of co-accused Gokul. The petitioner has been falsely implicated in the present case and recovery shown was never effected from him. No identification parade was conducted in the matter. Subsequent to the arrest of the petitioner, he has been nominated as accused in two more cases. He has been admitted to bail in the other FIR.

On the other hand, learned State counsel has opposed the instant petition. On instructions, learned State counsel submits that recovery of laptop belonging to the complainant was effected from the petitioner. She further

informs that the challan stands presented, but the charges are yet to be framed.

Heard.

Keeping in view the facts that no identification parade was conducted to ascertain the identity of the accused; the petitioner is in custody since 02.03.2017; and the trial is yet to commence as charges have not been framed so far; this Court feels that no purpose would be achieved in keeping the petitioner under further incarceration.

In view of the above, without advertng to the merits of the instant case, this petition is allowed. The petitioner be admitted to bail during the pendency of the trial, on furnishing bail bonds and surety bonds, to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned. ”

Learned State counsel, on instructions from ASI Ran Singh, has not disputed the factual assertions but opposed the bail.

Keeping in view the facts that no identification parade was conducted to ascertain the identify of the accused; the petitioner is in judicial custody since 20.03.2017 and the conclusion of the trial will take long time, without commenting upon merits of the case, the present petition is allowed. Petitioner is directed to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of Chief Judicial Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail in case the petitioner is found involved in any other subsequent case or found misusing concession of bail.

(ARVIND SINGH SANGWAN)
JUDGE

11.12.2017
Hemlata

Whether speaking/reasoned
Whether reportable

Yes / No
Yes / No