

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

CRL. MISC. No.M-13316 OF 2018
DATE OF DECISION : 18th MAY, 2018

Gurjant Singh @ Banty & another

.... Petitioners

Versus

State of Haryana

.... Respondent

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

* * * *

Present : Mr. Saurabh Sharma, Advocate for the petitioners.

Mr. Sidharth Sanwaria, DAG Haryana.

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A. B. CHAUDHARI, J. (ORAL)

The petitioners have filed this second petition under Section 439 Cr.P.C. seeking regular bail in FIR No.46 dated 04.02.2017 registered under Sections 379A, 392 IPC and 25/54/59 of Arms Act (subsequently Sections 395 and 397 IPC was added and 392 IPC was deleted) at Police Station Butana, District Karnal.

The learned State counsel has filed affidavit of Sh. Surrender Singh Bhoria, HPS, Superintendent of Police, Karnal in compliance of order dated 04.05.2015 passed by this Court. The same is taken on record.

Heard learned counsel for the rival parties.

The petitioners were arrested on 01.03.2017 and are in jail since then. This Court did not grant bail to the petitioners on earlier occasion looking to the fact that there are 17 criminal cases to the credit

of petitioner No.1 and 3 criminal cases to the credit of petitioner No.2. This is, therefore second petition filed by them after the evidence of the complainant has been recorded, which was the only evidence with the prosecution in the present FIR. The evidence of the complainant/victim has been recorded and copy thereof has been placed before me as Annexure P-2 by counsel for the petitioners. Upon perusal of the said statement of complainant, who is the only witness of the prosecution, who could depose about the incident properly, it is seen that the complainant has completely turned hostile and he has not supported the case of the prosecution in any manner. In that view of the matter, the petitioners are entitled to grant of regular bail in the absence of any prima facie evidence.

Learned State counsel however opposed the petition for bail to the petitioners on the ground that both the petitioners are history sheeters and therefore they should not be granted bail.

The submission would have been accepted had there been some evidence in this case. After all the Court is required to look into each and every case on its own facts and the Court would not get prejudiced merely because other cases are pending. For want of evidence in this case, therefore, regular bail will have to be granted.

In that view of the matter, I am inclined to grant bail to the petitioners; however with conditions. Hence, I make the following order:

ORDER

- (i) CRL. MISC. No.M-13316 OF 2018 is allowed.

- (ii) The petitioners are ordered to be released on bail to the satisfaction of the concerned CJM/Duty Magistrate.
- (iii) The petitioners to surrender their passport with the trial Court, if they possess the same.
- (iv) The petitioners shall report to the police station concerned on every Sunday between 11.00am to 4.00pm in addition to appearing before the trial Court on the dates fixed there.
- (v) The police shall keep surveillance on them.
- (vi) In case of violation of the above condition on the part of the petitioners, the liberty is reserved in favour of the State to apply for cancellation of bail.

18TH MAY, 2018
'raj'

(A. B. CHAUDHARI)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>	<i>No</i>
<i>Whether Reportable:</i>	<i>Yes</i>	<i>No</i>