

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-22983-2018 (O&M)

Date of decision: 02.07.2018.

Smriti
2018.07.03 16:08
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Rajinder

.. Petitioner

Vs.

State of Haryana

.. Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr.P.S.Hundal, Sr. Advocate with
Mr. Dinesh Trehan, Advocate, for the petitioner.

Mr. Naveen Sheoran, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in the petition is for grant of regular bail to the petitioner.

Learned Senior counsel for the petitioner submits that the petitioner was arrested on the basis of the disclosure statement of co-accused and in pursuance to the said disclosure statement, no recovery was effected from him. Learned senior counsel further submitted that as per the allegation in the FIR, many persons have been nominated as accused persons and out of 109 accused persons, 103 accused persons have already been granted concession of regular bail.

Learned senior counsel for the petitioner has relied upon the order dated 16.11.2017 passed in CRM-M-42080 of 2017 in which two accused, namely, Labh Singh and another have been granted concession of regular bail. The operative part of the order is reproduced as under:-

“FIR in this case was registered on the complaint of ASI Jaswinder Singh, who was present on 25.08.2017 with his police force and Paramilitary force in Sector 3, Panchkula in front of Hotel Holiday Inn, where about 25,000 to 30,000 followers of Head of Dera Sacha Sauda were present. The mob present there became violent after the conviction of Head of Dera Sacha Sauda and indulged in arson.

Learned counsel for petitioner submits that petitioner no. 1- Labh Singh had come to drop his parents, who were followers

of Dera Sacha Sauda and in the incident he received a firearm injury on his leg. Petitioner no. 2-Barjinder Pal is an old man of 62 years of age and was called to Panchkula as he was having agency of MSG, which sells products of Dera Sacha Sauda. There is no allegation against them that they either indulged in arson or were armed with any weapon. He further submits that the lower Court has allowed regular bail to several accused in this case vide order dated 08.11.2017. Claiming parity with those accused, he seeks bail for petitioners.

Learned State counsel submits that petitioners were members of unlawful assembly, who were present near Hotel Holiday Inn and were indulging in arson and activity of causing damage to public property. He further submits that no recovery was effected from both the petitioners in this case. They were arrested on 25.09.2011 after their discharge from the hospital.

It has been submitted that after completion of investigation, police has already presented the challan against some of the accused in this case.

Taking note of above facts but without expressing any opinion on merits of the case and keeping in view the fact that conclusion of trial will take considerably long time, the present petition is allowed.

Petitioners, namely, Labh Singh and Barjinder Pal are ordered to be released on regular bail on furnishing bail bonds and surety bonds to the satisfaction of concerned trial Court/Chief Judicial Magistrate/Duty Magistrate, subject to following terms:-

(a) Petitioners shall comply with the conditions mentioned in Section 437(3) Cr.P.C.

(b) In the event of their absence on any date of hearing, the benefit of bail allowed to petitioners shall stand withdrawn. The trial Court shall be competent to cancel their bail bonds and surety bonds and proceed to procure their presence in accordance with law. In that eventuality petitioners shall have to apply for bail afresh.

(c) They shall not leave the country without the previous permission of the Court.”.

Counsel for the petitioner further submits that the aforesaid co-accused Labh Singh was found involved in the incident and he has even suffered firearm injuries on his leg whereas no overt act is attributed to the petitioner and in another

FIR No. 345 dated 27.08.2017, the petitioner has already been granted concession of bail vide order dated 06.04.2018 passed in CRM-M-6971 of 2018.

Learned State counsel, on instructions from SI Jai Singh, has not disputed the factual position but opposed the prayer of bail on the ground that the petitioner was a member of the Core Committee of Dera Sacha Sauda and was actively involved in the commission of offence.

Learned State counsel further submits that challan has been presented on 27.02.2018 and charges have not been framed.

In reply, learned senior counsel for the petitioner submits that no evidence has been collected by the Investigating Officer that the petitioner was a Member of said Committee and it is only on the disclosure statement of the co-accused, the petitioner is stated to be a Member of Core Committee.

Without commenting anything upon the merits of the case, considering the fact that the co-accused have already been granted concession of regular bail; challen has been presented on 27.02.2018; charges are yet to be framed; conclusion of the trial will take long time and also in view of the fact that the petitioner in on bail in FIR no. 345 dated 27.08.2017, this petition is allowed. The petitioner is directed to be released on bail subject to his furnishing bail/ two heavy sureties to the satisfaction of the trial Court. However, it is made clear that in case, the petitioner is found involved for mis-using the concession of bail, it will be open for the prosecution to move an application for modification of the order.

Disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

02.07.2018
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Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No