

Crl. Misc. No. M-40457 of 2017

(1)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl. Misc. No. M-40457 of 2017

DATE OF DECISION:28.09.2018

Kuldeep

.....Petitioner

Versus

State of Haryana

.....Respondent

BEFORE:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. Rupinder Khosla, Senior Advocate with
Mr. Sarvesh Malik, Advocate
for the petitioner.

Mr. Manish Dadwal, AAG, Haryana.

DAYA CHAUDHARY, J.

The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to petitioner-Kuldeep in case FIR No. 1082 dated 18.10.2016 registered under Section 25 of Arms Act and Sections 120-B,148,149,302,307 IPC at Police Station Gurgaon City, District Gurgaon.

Learned Senior Counsel for the petitioner contends that the petitioner has falsely been implicated in this case, whereas, he was not involved in the commission of offence. The petitioner is in custody since 11.11.2016. The bail application of the petitioner has been dismissed only on the ground that many cases are there against him. Learned Senior Counsel further contends that there is no progress in the trial as inspite of sending summons on various occasions, the prosecution witnesses are not

appearing before the trial Court.

Learned counsel for respondent-State opposes bail to the petitioner on the ground that total 12 cases are there against the petitioner and out of those 12 cases, in seven cases, he has been acquitted but in five cases trial is going on and he is on bail in those cases. Learned State counsel further submits that an application for declaring the accused as juvenile was moved, which is still pending. The Advocate in that case has also been changed and the trial is likely to take time. Learned State counsel also contends that not only summons have been issued repeatedly butailable warrants have also been issued.

Heard the arguments advanced by learned counsel for the parties and have also gone through the contents of the FIR and other documents available on file.

It has not been brought to the notice of the Court as to whether the concession of bail has ever been misused by the petitioner. In case the presence of the witnesses is not procured through summons, the Court is having ample power to procure their presence throughailable warrants and thereafter non-ailable warrants but no such method has been adopted by the trial Court. The petitioner is in custody since 11.11.2016 and co-accused, namely, Sudesh has been released on regular bail by this Court vide order dated 24.5.2018 in Crl. Misc. No. M-4907 of 2018. Although parity cannot be claimed as role of the petitioner is different from co-accused-Sudesh but keeping in view the custody period of approximately two years undergone by the petitioner and stage of the trial as the presence of the witnesses has not been procured by the trial Court, the present petition is allowed. Petitioner-Kuldeep is directed to be released on interim

bail subject to his furnishing bail/surety bonds to the satisfaction of trial Court. It is also directed that the petitioner shall appear before the trial Court on each and every date and will not influence the witnesses or tamper with the evidence.

However, in case any new development is there or it is found that the petitioner is threatening the witnesses, the State is at liberty to move an application for cancellation of bail.

September 28, 2018
pooja

(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes