

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

CRM-M-6403 of 2018

Date of Decision: February 26, 2018

Vijay Nain

...Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Naveen Jaglan, Advocate
for the petitioner.

Mr. Pawan Kumar Jangra Addl. A.G. Haryana.

FATEH DEEP SINGH, J.

This order shall dispose off second regular bail application under Section 439 Cr.P.C of petitioner Viajy Nain.

The brief allegations brought to the notice of this Court are that one Kanwar Deep Singh Bhatia, Textile Merchant handed over to his servant Birender @ Lala a sum of Rs.79,65,000/- to be handed over to a person. It is alleged that on 30.11.2016 when Birender @ Lala was travelling in a bus carrying money on the way to Bhellwada 3-4 persons wearing ITBP uniform waylaid the bus and took the money and subsequently it transpired that Birender @ Lala in connivance with his co-accused under the camouflage of robbery to rob the owner of the money had committed this crime. The petitioner happened to be one of the accused who played an active role in this crime and from his possession a sum of

Rs.19,23,000/-, uniform of ITBP and motorcycle have been recovered.

It is contended by learned counsel for the petitioner that the petitioner is behind the bars since 25.2.2017 and that the principal witnesses have not supported the story of the prosecution and that similarly placed co-accused Amit @ Bablu has been allowed bail vide order dated 02.02.2018 of this Court and that the case of the petitioner is not distinguishable with that of his co-accused and that the trial is not likely to be concluded in near future.

Learned State counsel has sought to oppose the grant of bail to the petitioner on the grounds of heinousness of offence and seriousness of allegations and the fact that recovery has been effected from the petitioner and that out of total 10 accused six have been arrested and four are still absconded and that if allowed bail, the petitioner might also abscond .

Appreciating the submissions, the petitioner is behind the bars for more than one year and out of total 30 prosecution witnesses only 03 witnesses have been examined and some of them do not support the prosecution story. The very applicability of Section 395 IPC in the light of the allegations as well as Section 170 IPC is debatable issue together with the fact that similarly placed co-accused has been granted concession of bail. Thus, in view of the principle of parity and keeping in view that the trial is not likely to be concluded in near future and culpability, if any, shall be determined at the time of trial and that no useful purpose shall be served by keeping the petitioner behind the bars, the present application stands allowed subject to furnishing of heavy bail bonds with two sureties in the

like amount to the satisfaction of the trial Court.

(FATEH DEEP SINGH)
JUDGE

February 26, 2018
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No