

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

**Criminal Misc. No. M-19798 of 2018
Date of decision: 16.01.2019**

Dr. Kuldeep

..Petitioner

Versus

State of Haryana

..Respondent

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present: Mr. R.S. Cheema, Sr. Advocate with
Mr. R.K. Trikha, Advocate
for the petitioner.

Mr. Chetan Sharma, AAG, Haryana
for the respondent -State.

Mr. P.S. Sullar, Advocate
for the complainant.

Daya Chaudhary, J. (Oral)

The present petition has been filed by petitioner-Dr. Kuldeep under Section 439 Cr.P.C. for grant of regular bail to him in case FIR No.94 dated 26.03.2015 registered under Sections 148, 302, 341, 216 and 149 IPC and Section 25/54/59 of the Arms Act at Police Station Sadar, Narnaul.

Learned senior counsel for the petitioner submits that it is a case of version and cross-version. Only the name of the petitioner is mentioned in the FIR but there is no eye witness account of the incident. No recovery has been effected from the petitioner and he has been implicated in the case only on the basis of disclosure statement made by co-accused, which has no evidentiary value. The petitioner is in custody since 21.04.2016 i.e. for the last approximately 2 years and 9 months. There are total 48 prosecution witnesses and after examination of material witnesses, still 23 witnesses remain to be examined. Trial may take long time to conclude and no purpose would be served by keeping the petitioner in

custody.

Status report by way of affidavit of Mr. Vinod Kumar, HPS, Superintendent of Police, Narnaul, District Mahendergarh at Narnaul has been filed in the Court today and the same is taken on record.

Learned State counsel has not disputed the custody period; stage of trial as well as examination of material witnesses but has opposed grant of regular bail to the petitioner on the ground that a number of cases of serious nature are pending against the petitioner and even in a case under Section 307 IPC, the petitioner has been convicted.

Similarly, learned counsel for the complainant has also opposed grant of regular bail to the petitioner on the ground of seriousness of offence and the fact that the petitioner is a habitual offender as he is involved in a number of cases as pointed out by learned State counsel. Learned counsel for the complainant also submits that one more case i.e. FIR No.576 dated 03.10.2018 under Sections 148, 149, 307, 427 read with Section 120-B IPC and Section 25/54/59 of the Arms Act at Police Station Mohindergarh is also pending against the petitioner but the same has not been mentioned in the custody certificate whereas learned senior counsel for the petitioner submits that the petitioner was in custody at the time of registration of FIR and the same appears to be false case.

Heard arguments of learned counsel for the parties and have also perused the contents of the FIR and other documents available on the file.

In the status report, total 23 cases including the present one have been reflected against the petitioner. The petitioner has been acquitted

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in 11 cases and he has been convicted in three cases but has undergone the sentence only in two cases. Out of remaining nine cases, he is on bail in seven cases and is in custody in two cases i.e. the present one and FIR No.1653 of 2017 registered under Sections 2/3 of the Gangster Act at Police Station Sihani Gate, Gaziyabad (UP).

Without commenting anything on the merits of the case and keeping in view the submissions made by learned counsel for the petitioner that the petitioner is in custody since 21.04.2016; no recovery was effected from the petitioner; there is no eye witness account of the incident; all the material witnesses have been examined; trial may take long time to conclude and it would be a symbolic release as the petitioner is in custody in other case and he would be released after getting bail in the aforesaid case i.e. FIR No.1653 of 2017, the present petition is allowed and the petitioner (Dr. Kuldeep) is directed to be released on regular bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court, if not required in any other case.

However, it is made clear that at present, it would be a symbolic order of grant of regular bail and in case the petitioner is released on bail in FIR No.1653 of 2017, he be released in this case also. It is also made clear that in case, the petitioner is found to be involved in any other case of serious nature, the State is at liberty to move an application for cancellation of bail.

16.01.2019
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(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned

Yes

Whether Reportable

No