

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

CRM-M No. 42329 of 2018

Date of decision : 11.03.2019

Ashwani Kumar @ Badal

.....Petitioner

Versus

State of Punjab

...Respondent

CORAM : HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present : Mr. Amandeep Singh Manaise, Advocate for the petitioner.

Mr. Amit Mehta, Senior DAG, Punjab.

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DAYA CHAUDHARY, J. (Oral)

This petition has been filed by petitioner Ashwani Kumar alias Badal under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to him in case FIR No.127 dated 04.07.2009 under Sections 452, 380, 323, 324, 427, 148, 149, 307 of the Indian Penal Code, 1860, registered at Police Station – Civil Lines, Batala, Distt. Gurdaspur, during pendency of the trial.

Learned counsel for the petitioner submits that the petitioner was declared innocent by the investigating agency and challan was not presented against him. Subsequently, he has been summoned under Section 319 Cr.P.C. to face trial. Learned counsel also submits that the petitioner has wrongly been declared proclaimed offender without following the mandatory provisions. He is in custody since 01.06.2018. As per allegations against him only one injury has been attributed to him which is on non-vital part. Co-accused of the petitioner have been convicted by the

trial Court. Petitioner is ready to abide by all the terms and conditions to be imposed by this Court or by the trial Court and undertake to appear before the trial Court on each and every date of hearing. Now the case is fixed for framing of charges. Trial may take some time to conclude and no purpose would be served by keeping him in custody.

Learned State counsel has not disputed the period of custody, stage of the trial as well as the fact that petitioner was declared innocent earlier but subsequently he has been summoned under Section 319 Cr.P.C.

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

By considering the submissions of learned counsel for the petitioner that the petitioner was found innocent during investigation but summoned under Section 319 Cr.P.C. and thereafter he was wrongly declared proclaimed offender without following the mandatory provisions and custody undergone by the petitioner since 01.06.2018 as well as the stage of the trial as the case is fixed for framing of charges and trial may take some time to conclude, no purpose would be served by keeping the petitioner in custody. Accordingly, the present petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing adequate bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

11.03.2019

sunil yadav

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No

**(DAYA CHAUDHARY)
JUDGE**