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

CRM-M-36383 of 2019

Date of decision: October 04, 2019

Satbir Singh

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Rajat Mor, Advocate for the petitioner.

Mr. Tanuj Sharma, AAG Haryana.

MAHABIR SINGH SINDHU, J (Oral)

Present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 (for short 'Cr. P.C.') for grant of bail pending trial to the petitioner, in FIR No.231 dated 17.06.2017, under Sections 224, 225, 307, 332, 353, 34, 120-B of the Indian Penal Code, 1860 (Section 332 is wrongly mentioned as Section 323 IPC in impugned order dated 31.07.2018) and Section 25 of Arms Act, 1959, registered at Police Station Sector-5, District Panchkula.

Custody certificate dated 03.10.2019 filed by learned State counsel, today in Court, is taken on record.

As per prosecution case, petitioner along with co-accused managed to flee Deepak from the custody of the police party while spraying poisonous substance in their eyes and during their run, they also fired with an intention to kill them.

Contentends that petitioner is in custody since 21.06.2017 and

on the date of occurrence, he was already confined in jail in case FIR

No.129 dated 10.06.2016, under Sections 120-B, 148, 149, 323, 324, 325, 336, 380, 385, 427, 506 of IPC, registered at Police Station Chandimandir, Panchkula. Also contends that neither the petitioner has been named in the FIR; nor anything has been recovered from him.

On the other hand, learned State counsel, on instructions from police official present in Court to assist him, has opposed the prayer of the petitioner and submitted that he has been arrayed as an accused on the basis of disclosure made by Joginder @ Joga and during investigation, two mobile phones were also recovered from the petitioner.

Heard both sides and perused the paper-book.

It is an admitted position that on the date of occurrence, petitioner was in custody in FIR No.129 dated 10.06.2016 and he has been implicated, in this case, on the basis of disclosure made by co-accused Joginder @ Joga, who is stated to be granted bail by this Court vide order dated 10.07.2019. Once it is duly established that the petitioner was already in custody on the date of occurrence, then it is not discernible as to how and under what circumstances, two mobile phones were recovered from him? At the best, it could be done in connivance with the jail official(s) and there is nothing on record that any departmental action has been initiated against the erring official(s), therefore, the incarceration of the petitioner cannot be prolonged on that basis.

In view of the above, this petition is allowed. Petitioner is ordered to be released on bail, in this case, on his furnishing adequate

bail bonds and surety bonds to the satisfaction of learned trial Court/Duty Magistrate concerned.

The above observations may not be construed as an expression of opinion on the merits of the case.

The petitioner shall fully co-operate with learned trial Court without seeking any unnecessary adjournments.

(MAHABIR SINGH SINDHU)
JUDGE

October 04, 2019

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Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No