

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-42165-2019

Date of decision: 17.10.2019

Hoshiyar

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Tanmoy Gupta, Advocate
for the petitioner.

Mr. Deepak Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of regular bail in FIR No.97 dated 09.02.2017 under Sections 397, 395, 120-B IPC, Section 25 of Arms Act and Sections 201, 412 IPC (added later on), registered at Police Station Civil Lines, Gurugram, District Gurugram.

Learned counsel for the petitioner submits that the petitioner is in custody since 20.02.2017 i.e. for a period of more than 02 years and 07 months. It is further submitted that the FIR was initially registered against unknown persons and later on, the petitioner and co-accused were arrested. Learned counsel relies upon the order dated 27.02.2019 passed in CRM-M-53571-2018, vide which regular bail was granted to co-accused Devender @ Deva, by passing the following order: -

“...Learned counsel for the petitioner submits that out of total 13

accused, who are facing the trial, 09 have already been granted the concession of bail either by the Court of Sessions or by this Court. Learned counsel has referred to the statement of complainant Krishan Kumar PW1 as well as one witness Shruti Bhardwaj, who appeared as PW2, where they have failed to identify any of the accused person during their examination-in-chief. It is further submitted that though PW4 Mukesh, who was the Security Guard, has identified two persons, but he was unable to identify them by name and on asking of the Court, the accused have disclosed their names as Waseek Ahmad and Bhagat Singh.

Learned counsel for the petitioner further submits that aforesaid Bhagat Singh has already been granted the concession of regular bail by the Addl. Sessions Judge, Gurugram vide order dated 08.09.2017. It is thus argued that it will be a debatable issue regarding identity of the petitioner to be decided by the trial Court.

Learned counsel for the petitioner has further submitted that the petitioner was arrested on 12.02.2017 and a period of 02 years has already lapsed and the petitioner, except the present FIR, is not facing any case of similar nature.

Learned State counsel, on instructions from SI Yogender Singh, has not disputed the factual position and submits that out of total 38 prosecution witnesses, 07 PWs have been examined. It is further submitted that some gold articles and Rs.2.50 lacs were recovered from the petitioner.

Without commenting anything further on merits of the case, considering the fact that the petitioner is in custody for more than 02 years and the case is still at the stage of recording the prosecution evidence; 31 prosecution witnesses remain to be examined; petitioner is not facing any such or similar trial, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bond to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.”

Learned counsel for the petitioner further submits that case of the petitioner is on similar footings and since the prosecution is yet to conclude its evidence, it will take long time in conclusion of the trial.

Learned State counsel, on the basis of custody certificate dated 16.10.2019 filed in the Court today, has not disputed the factual position and on instructions from ASI Parveen Kumar, has submitted that there are total 31 prosecution witnesses, out of which, only 12 have been examined so far.

Without commenting anything on merits of the case, considering the aforesaid submissions made by learned counsel for the parties, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bond to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

17.10.2019

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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No