

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

105

CRM-M-47331-2019
Date of decision: 19.11.2019

Krishan

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Sushil Jain, Advocate for the petitioner.

Mr. Ramesh Kumar Ambavta, A.A.G., Haryana.

ARUN KUMAR TYAGI, J (ORAL)

The petitioner has filed present petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case FIR No.134 dated 21.04.2018 registered under Sections 307, 212 read with Section 34 of the Indian Penal Code, 1860 and Section 25 of the Arms Act, 1959 at Police Station Murthal, District Sonipat.

Learned Counsel for the petitioner has submitted that the petitioner could not appear on 26.09.2019 due to noting down of wrong date of hearing as 26.10.2019. Absence of the petitioner was due to noting down of wrong date of hearing and was not intentional. His bail order was cancelled and on surrender the petitioner was taken into custody. Trial is yet to take long time. The offence punishable under Section 212 of the IPC alleged to have been committed by the petitioner is bailable. The petitioner will co-operate in examination of the prosecution witnesses and will not seek unnecessary adjournments. The petitioner is ready to abide by all the terms and conditions and he may

be ordered to be released on regular bail.

Learned State Counsel has submitted that two PWs Nishant and Priyanka were present on 26.09.2019 and could not be examined due to absence of the petitioner. The petitioner misused the concession of bail. Therefore, the bail application may be dismissed.

In the present case, the petitioner is alleged to have committed offence punishable under Section 212 of the IPC which is bailable. He was granted regular bail but on default his bail order stood cancelled. On surrender he was taken on custody. No doubt, two PWs were present on 20.09.2019 but the petitioner has claimed to have absented due to noting down of wrong date of hearing which fact is also borne out by the zimni order passed on that date which shows that even Counsel of the petitioner was not present on that date. Since, the absence of the petitioner cannot be said to be intentional and deliberate to avoid the examination of the witnesses, the petitioner cannot be made to suffer on account of some mistake in noting down wrong date of hearing. Trial is likely to take long time. No useful purpose will be served by keeping the petitioner in custody during trial.

In these facts and circumstances of the case, the petition is allowed and the petitioner is ordered to be released on bail on furnishing of fresh bail bonds by him to the satisfaction of trial Court.

19.11.2019

Kothiyal

(ARUN KUMAR TYAGI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No