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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

202 **CRM-M-12657-2020**
Decided on : 05.06.2020

Mandeep Singh @ Lavi

... Petitioner

Versus

State of Haryana

... Respondent

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present: Mr. G.C. Shahpuri, Advocate for the petitioner.

Mr. Chetan Sharma, AAG, Haryana.

G.S. Sandhawalia, J. (Oral)

The matter has been taken up by way of Video Conferencing facility in view of COVID-19 situation, as per instructions issued.

In the present petition filed under Section 439 Cr.P.C., the petitioner is seeking concession of regular bail in case FIR No.105 dated 29.03.2019 under Sections 307, 120-B IPC & 25, 54, 59 and 27 (added later on) of Arms Act registered at Police Station Chhappar, District Yamuna Nagar.

Admittedly, as per the FIR itself, the complainant had not seen anyone open fire at his house and only heard the sound of loud noise. Only in the morning he had seen there were bullet marks on the door of his house and three empty cartridges and one live cartridge was lying there. On the basis of suspicion three persons had been named in the FIR and the petitioner was not one of them. The petitioner was, accordingly, arrested only on account of disclosure statements recorded by the Investigating Officer and has been in custody since 12.12.2019 and a period of almost

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over 6 months has gone by.

Surprisingly, the Additional Sessions Judge, Yamuna Nagar vide order dated 11.05.2020 noticed that trial has not commenced and the fact that the petitioner has not been specifically named in the FIR. She, however, came to the conclusion that veracity of the allegations levelled against the petitioner are to be examined only after conclusion of the trial. Further observations has been made that in the event of release of the petitioner, he may hamper the prosecution evidence and in such circumstances on such basis the gravity and seriousness of offence coupled with the manner of its commission, the Court had declined to grant to bail.

In the considered opinion of this Court, the reasons given by the Additional Sessions Judge are not justified in the facts and circumstances. The Court has failed to take into consideration that the petitioner has been detained as such on a disclosure statement which may not stand the scrutiny in the Court of law. Apparently prima facie the investigating officer has over stepped his jurisdiction in his keenness to solve the crime as such which was not appreciated by the Additional Sessions Judge. It is hoped that in such blatant detention matters also the Sessions Court would be more sensitive to the accused who approach the District Judiciary for their freedom and who are unnecessarily forced to approach the High Court on account of lack of exercise of jurisdiction, even in valid cases, which is coming to the notice of this Court time and again.

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Accordingly, the bail application is allowed. The petitioner shall be released on regular bail on furnishing of bail bonds/sureties to the satisfaction of the Trial Court/Duty Magistrate, Yamuna Nagar.

Needless to say that any observations made herein are only for declining the anticipatory bail and do not comment upon the merits of the case.

(G.S. SANDHAWALIA)
JUDGE

June 05, 2020
Naveen

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No