

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

CRM-M-15673-2020 (O&M)

Date of decision: 30.09.2020

Rajinder

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Mazlish Khan, Advocate
for the petitioner.

Mr. Deepak Kumar Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

This petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 38 dated 06.02.2014, registered under Sections 395, 397, 342, 307, 412 of the IPC and Section 25 of the Arms Act, 1959 at Police Station City, Narwana, District Jind.

As per the allegations in the FIR, registered at the instance of complainant Karambir, it is stated that when he was travelling from Ambala to Pune in his vehicle and while crossing Narwana Hisar road, two young boys, armed with weapons, intercepted his vehicle and instructed him to stop and they fired shot on the window panes of co-driver side, on which, glass of the window was broken. One of the accused also fired on Vikram, however, no one was injured. Thereafter, on the gun point, they took the vehicle away and also snatched a cash of Rs. 18,000/-.

Learned counsel for the petitioner submits that the petitioner was lodged in Yamuna Nagar Jail, where he was facing trial in FIR No. 91

dated 07.02.2014, registered under Sections 393, 506, 452, 120-B of the IPC and Section 25 of the Arms Act, 1959 at Police Station City Yamuna Nagar and later on, he was acquitted in the said case on 05.12.2019.

Learned counsel further submits that in the present FIR, petitioner is in judicial custody from 04.07.2018 and the trial is proceeding at a very slow pace.

Learned counsel further submits that petitioner was initially granted bail, however, after his arrest in aforesaid FIR No. 91, his bail/surety bonds were cancelled when his production warrants were taken and he was produced before the Court.

Learned counsel for the petitioner further submits that since the petitioner is in long judicial custody, he may be granted concession of regular bail.

It is worth noticing here that the power of attorney/*Vakalatnama*, filed on behalf of the petitioner, has been duly attested by the Superintendent, District Jail, Jind, which shows that petitioner, at the time of filing of the present petition, was lodged in District Jail, Jind, however, it appears that some wrong impressions were taken on 15.07.2020 that the petitioner is lodged in District Jail, Yamuna Nagar and accordingly, it was directed that Superintendent, District Jail, Yamuna Nagar shall file an affidavit regarding custody of the petitioner. The case was thereafter adjourned twice and then on 26.08.2020, a cost of Rs. 10,000/- was imposed on the Officer concerned, to be paid to petitioner, for not filing the said affidavit.

The affidavit of Dr. Rajeev, Deputy Superintendent, District Jail, Yamuna Nagar has been filed in Court along with a receipt from the

petitioner that he has received a demand draft of Rs. 10,000/- in the presence of Deputy Superintendent, District Jail, Yamuna Nagar on 04.09.2020.

In the aforesaid affidavit, it is explained that petitioner remained in District Jail, Yamuna Nagar from 12.04.2018 to 06.10.2018 and thereafter, when the production warrants were taken in the present FIR from the Court at Narwana, the petitioner was produced before the Court on 06.06.2018 and thereafter, he is lodged in District Jail, Jind. Therefore, after 06.06.2018, the petitioner never remained in the custody of District Jail, Yamuna Nagar.

In view of above, it appears that on account of a wrong information given by the petitioner, the Officer concerned at District Jail, Yamuna Nagar was imposed with aforesaid cost for no fault.

Learned State counsel has not disputed that petitioner is in judicial custody since 06.06.2018 in District Jail, Jind and one of the co-accused, namely Baljeet Singh, has already been granted concession of regular bail by this Court, vide order dated 13.03.2019 passed in CRM-M-10708-2019.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the fact that at one point of time, the petitioner was granted bail, however, the same was cancelled later on, on account of production before the Court in aforesaid FIR and also in view of the fact that he is in judicial custody for the last more than two years, the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaq Magistrate,

concerned.

However, this will be subject to a condition that petitioner will return the amount of Rs. 10,000/- paid to him as costs by Dr. Rajeev, Deputy Superintendent, District Jail, Yamuna Nagar.

The Illaqua Magistrate/trial Court/Duty Magistrate shall ensure that petitioner is released only after the said amount is paid back to Dr. Rajeev, Deputy Superintendent, District Jail, Yamuna Nagar, by way of a demand draft.

30.09.2020
Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No