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

CRM-M-19061 of 2020 (O&M)

Date of decision: September 21, 2020

Naveen Patari

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. J.P. Jangu, Advocate for the applicant-petitioner.

Mr. Pardeep Prakash Chahar, DAG Haryana.

MAHABIR SINGH SINDHU, J

CRM-16660-2020

Application has been filed for seeking exemption from filing original power of attorney.

For the reasons stated in the application, the same is allowed, subject to all just exceptions.

CRM-18943-2020

Application has been filed for placing on record the order dated 23.10.2019 as Annexure P-8.

For the reasons stated in the application, the same is allowed, subject to all just exceptions. Annexure P-8 is taken on record.

Main case

Second 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.159 dated 12.10.2018, under

Sections 307, 332, 353, 186, 34 of the Indian Penal Code, 1860 (for short 'IPC') and Section 25 of the Arms Act, 1959 (for short 'Arms Act'), registered at Police Station Sadar Rewari, District Rewari.

Copy of supplementary status report by way of affidavit dated 17.09.2020 of Mohd. Jamal, HPS, Deputy Superintendent of Police, Rewari, District Rewari is taken on record. Registry to tag the same at appropriate place.

As per the prosecution case, two boys on a motorcycle, when trying to cross the barricade were asked by the police to stop; then pillion rider (petitioner) opened fire at Sub Inspector-Sultan, but he was apprehended on the spot. One country-made pistol of .315 bore along with two live cartridges were recovered from him; similarly from driver (Manish) also one country-made pistol of .315 bore along with two live cartridges were recovered.

Contends that petitioner is in custody since 12.10.2018 and co-accused, namely Manish, with similar allegations, has already been granted bail pending trial. Also contends that earlier bail petition of the petitioner was dismissed on account of pendency of other criminal cases, but as a matter of fact, he has either been acquitted or granted bail in all other cases. Further contends that in view of the COVID-19, there is no progress in the trial, thus, he be released on bail.

On the other hand, learned State counsel opposed the prayer and submitted that on earlier occasion, bail of the petitioner was dismissed by this Court while passing detailed order on 23.10.2019, taking into consideration the fact that he is having a criminal background

and there is no new ground made out for the second petition for bail pending trial. Also contended that in view of the antecedents of the petitioner, he is most likely to hamper the trial, in case released on bail.

Heard both sides and perused the paper-book.

Undisputedly, apart from the present case, petitioner is involved in other criminal cases also and Deputy Superintendent of Police, Rewari, in Para-4 of his earlier affidavit dated 20.08.2020, has given the details as under:-

“1. FIR No. 12 dated 19.01.2018, under Section 307 of the Indian Penal Code, and Sections 25, 54 and 59 of the Arms Act, 1959 registered at Police Station Lakhan Majra.

2. FIR No.231 dated 26.09.2018, under Section 174-A of the Indian Penal Code registered at Police Station Lakhan Majra.

3. FIR No.227 of 2016, under Sections 302, 342, 396 of the Indian Penal Code registered at Police Station Singhana, Rajasthan.

4. FIR No.374 dated 31.12.2016, under Section 379 of the Indian Penal Code, registered at Police Station Suratgarh, Rajasthan.

5. FIR No.293 dated 04.10.2016, under Sections 457 and 380 of the Indian Penal Code, registered at Police Station Jhunjhunu, Rajasthan.

6. FIR No. 258 dated 23.08.2016, under Section 379 of the Indian Penal Code, registered at Police Station Jhunjhunu, Rajasthan.

7. FIR No. 3 dated 05.01.2017, under Section 379 of the Indian Penal Code, registered at Police Station Jhunjhunu, Rajasthan.

8. FIR No. 265 of 2018, under Section 174-A of

the Indian Penal Code registered at Police Station Lakhan Majra, District Rohtak.”

In FIR No.12 dated 19.01.2018, petitioner was granted bail pending trial by co-ordinate Bench of this Court on 17.07.2019; in FIR No.227 of 2016, bail was granted by the High Court of Rajasthan Bench at Jaipur, on 04.04.2019; whereas, in FIR No.231 dated 26.09.2018, petitioner was convicted on the basis of his confession, by learned SDJM, Meham, on 03.04.2019 and sentenced to the period already undergone vide order of even date. Except above two instances, learned counsel for the petitioner is not able to show anything that petitioner is on bail in the remaining five (5) cases or stands acquitted.

Concededly, this Court on 23.10.2019 while dismissing CRM-M-36871-2019 of the petitioner, observed as under:-

“In view of the facts and circumstances discussed hereinabove, it is apparently clear that petitioner is facing number of criminal cases including the present one and he is having a criminal background. In the present case also, there are serious allegations against the petitioner and thus, he does not deserve any concession of bail pending trial.”

No doubt, petitioner is on bail in two cases, i.e. serial No.(1) and (3) discussed above, but the fact remains that he is having a criminal background and more particularly, allegation in the present case is that he dared to fire on a Sub-Inspector of Police who was performing his official duties for checking of suspects at the barricade, thus, the same cannot be countenanced.

Although, there is some delay in finalization of the trial, but that cannot be attributed to the prosecution, rather beyond their control

due to the prevailing pandemic (COVID-19); thus, no benefit can be granted to the petitioner on that count.

Mere release of the co-accused on bail is also not helpful to the petitioner due to the pendency of various criminal cases against him.

Since learned counsel for the petitioner has failed to make out any new ground while filing the second petition for bail pending trial, thus, this Court has no option except to dismiss the same.

Ordered accordingly.

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

(MAHABIR SINGH SINDHU)
JUDGE

September 21, 2020

mahavir

Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No