

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-20203 of 2020 (O&M)

Date of decision: 04.11.2020

Rajesh @ Khiniya

... Petitioner

versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Rohit Mittal, Advocate,
for the petitioner.

Mr. Rajeev Goyal, DAG, Haryana.

Mr. Nitin Singh, Advocate,
for the complainant.

Through Video Conference

JASGURPREET SINGH PURI, J. (Oral)

CRM-27075-2020

This is an application for placing of record judgement of acquittal dated 20.10.2018 passed by the learned Additional Sessions Judge, Narnaul as Annexure P-3.

Prayer is allowed. Annexure P-3 is ordered to be placed on record.

CRM-M-20203-2020

The present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in FIR No.210 dated 27.06.2017, under Sections 148, 149, 323, 325, 452 and 307 of the Indian Penal Code and Section 25 of the Arms Act, registered at Police Station City Nangal Choudhary, District Mahendergarh.

The aforesaid FIR was registered on the complaint which was

made by the complainant on the basis of allegations that some persons entered into the house of the complainant and fired upon her and as a result of the same, she sustained injuries on her thigh. The assailants also gave her blow with the help of handle of the weapon.

Learned counsel for the petitioner has submitted that although no person was named in the FIR but against him the challan was presented later on the basis of his summoning under Section 319 Cr.P.C. He has submitted that the petitioner was earlier granted bail by the learned trial Court but on 08.01.2020, he could not appear before the trial Court and thereafter, because of the wrong noting of the date by the learned counsel and thereafter, he was declared as proclaimed offender. However, on coming to know the date of the case, he himself surrendered before the trial Court on 28.02.2020, i.e., a gap of 1½ months and since then he is in custody. He has further submitted that even the evidence in the present case has been concluded and there is no likelihood of tempering with any evidence.

Learned counsel for the petitioner has also submitted that even the main accused, namely, Krishan and Bhairu Singh, who faced trial in the present case have since been acquitted by the Court of learned Additional Sessions Judge, Narnaul, on 20.10.2018. So far as the petitioner is concerned, he is still facing the trial and he had no intention of absenting himself from the proceedings but it was only because of wrong noting of the date that he remained absent for a period of 1½ months. He has further submitted that the fact that he himself surrendered before the Court would substantiate and fortify his bonafide intention. While referring to the order of acquittal passed in the same FIR, he has further submitted that the petitioner may be considered for grant of bail in the present case.

On 26.10.2020, this Court directed the learned State counsel to check up as to whether the petitioner was involved in any other offence from 08.01.2020 to 28.02.2020, i.e., the period during which he remained absent. On 29.10.2020, the learned State counsel stated that there is no information with regard to the involvement of the petitioner in any other offence during the aforesaid period. Today, again, the learned State counsel was asked the same question and the learned State counsel has reiterated, on the basis of instructions of SI Rajinder Kumar, that the petitioner was not involved in any case during the aforesaid period when he absented himself from the proceedings. However, the learned State counsel has opposed the grant of bail on the ground that once the petitioner has jumped the bail, he may not be considered for grant of bail.

I have heard learned counsel for the parties through video conferencing.

The petitioner was summoned in the present case under Section 319 Cr.P.C and was to face the trial and the alleged co-accused, namely, Krishan and Bhairu Singh had been acquitted by the Court of Additional District Judge, Narnaul. Although, the petitioner was granted bail by the learned trial Court during the trial but due to his absence for a period of 1½ months, i.e., from 08.01.2020 to 28.02.2020 that he absented himself and was declared as proclaimed offender at this point of time, however, the petitioner himself surrendered and join the proceedings.

Therefore, considering the totality of circumstances of the present case, the present petition is allowed. The petitioner is admitted to bail on his furnishing bail bond/surety subject to the satisfaction of the learned trial

Court/Duty Magistrate.

However, anything observed herein-above shall not be trated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

[JASGURPREET SINGH PURI]
JUDGE

04.11.2020
adhikari

Whether speaking/non-speaking	:	Yes/No
Whether reportable	:	Yes/No