

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(214)

CRM No. M-20633 of 2020
Date of Decision : 11.08.2020

Vijay

....Petitioner

Versus

State of Haryana

....Respondent

(Through Video Conferencing)

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Anuj Arya, Advocate for the petitioner.

Mr. Vishal Malik, Deputy Advocate General, Haryana

Harsimran Singh Sethi, J. (Oral)

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in FIR No. 60 dated 07.02.2020 under Sections 420, 467, 468, 471 and 120-B IPC, registered at Police Station City DLF, Sector-29, District Gurugram.

Learned counsel for the petitioner states that petitioner is behind the bars since 11.02.2020 and co-accused, namely, Sumit Kumar, Pawan and Dalip have already been extended the benefit of regular bail by this Court. Learned counsel for the petitioner further states that the allegations alleged against the petitioner and co-accused Sumit Kumar are similar and, therefore, on the case of parity, petitioner is also entitled for the concession of regular bail.

Notice of motion.

Mr. Vishal Malik, learned Deputy Advocate General, Haryana, who has also joined the proceedings through video conference, keeping in

view the service of advance copy of petition, accepts notice on behalf of respondent-State. Learned State counsel on instructions from ASI Vivek Kumar, states that petitioner was working alongwith other gang members to deceive the citizens. Learned State counsel does not dispute the grant of concession of bail by this Court to co-accused, namely, Sumit Kumar, Pawan and Dalip. He submits that as certain recoveries were effected from the petitioner, though the allegations against the petitioner and co-accused Sumit Kumar are similar, petitioner cannot claim parity.

I have heard learned counsel for the parties and have gone through the record very carefully.

Once, the allegations against the petitioner and co-accused Sumit Kumar are similar and co-accused Sumit Kumar has already been extended the benefit of bail by this Court, unless and until some differentiating facts are brought on record, the concession of regular bail, as extended to co-accused Sumit Kumar, cannot be denied to the petitioner. In respect of the objection of learned State counsel that the recoveries have been done from the petitioner and, therefore, petitioner cannot claim parity, this objection cannot be raised to deny the concession of bail to the petitioner as recoveries were also done from co-accused Pawan and Dalip, which is clear from the order passed by this Court and they have been extended the benefit of bail keeping in view the fact that co-accused Sumit Kumar was extended bail by this Court. The order dated 12.06.2020 passed by this Court in CRM No. M-13588 of 2020 while granting bail to co-accused Sumit Kumar is as under:-

“This matter is being taken up for hearing through video conferencing due to outbreak of the pandemic, COVID-19.

Petitioner, seeks the concession of bail pending trial in

FIR No.60 dated 07.02.2020, under Sections 420, 467, 468, 471 and 120 B IPC, registered at Police Station Sector 29, District Gurugram.

It is submitted that that the petitioner has been falsely implicated in this case on the basis of a disclosure statement of the co-accused, namely Chitranjan. It is vehemently argued that there is no other evidence on record against the petitioner except the above said disclosure statement of the co-accused. The petitioner, it is stated is in custody since 11.02.2020. It is thus prayed that this petition be allowed.

Learned counsel for the State, on instructions from SI Haresh Kumar, verifies that apart from the disclosure statement of the co-accused, there is no other palpable evidence against the present petitioner. Final report/Challan under Section 173 Cr.P.C., stands presented and it is further verified that the petitioner is not involved in any other criminal case.

There are no allegations on behalf of the State that the petitioner is likely to abscond or that he is likely to dissuade the witnesses from deposing true facts in Court, if released on bail. No useful purpose would be served by keeping the petitioner incarcerated any longer in the facts and circumstances of this case.

Keeping in view the facts and circumstances as above but without commenting upon or expressing any opinion on the merits of the case, this petition filed by petitioner-Sumit Kumar, is allowed. The petitioner be released on bail pending trial subject to his furnishing requisite bail bonds and surety to the satisfaction of the learned Trial Court/Duty Magistrate.

It is clarified that none of the observations made here-in-above shall be construed to be a reflection on the merits of the case. The same are solely confined for the purpose of decision of the present petition.”

Once, no differentiating fact has been brought on record between the petitioner and co-accused Sumit Kumar, petitioner has made out a case for the grant of regular bail.

Without commenting upon the merits of the case, it is directed that the petitioner be released on regular bail, subject to the satisfaction of trial Court/Duty Magistrate concerned.

Learned counsel for the petitioner undertakes that petitioner will not obstruct the trial in any manner or influence the witnesses, whose statement is yet to be recorded and in case of default of the above undertaking, the State will be at liberty to approach this Court for passing appropriate orders.

However, it is made clear that anything observed herein shall not be construed to be an expression of any opinion on the merits of the case.

August 11, 2020
kanchan/naresh.k

(HARSIMRAN SINGH SETHI)
JUDGE

Whether reasoned/speaking? *Yes*

Whether reportable? *No*