

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

205

CRM-M-29062-2020

Date of decision: 25.09.2020

Momin @ Kala

.....Petitioner

versus

State of Haryana

....Respondent

CORAM: Hon'ble Mr. Justice Girish Agnihotri

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

Mr. Rajiv Goel, DAG, Haryana.

GIRISH AGNIHOTRI, J. (Oral)

The matter has been taken up through video-conferencing on account of restrictions due to outbreak of pandemic COVID-19.

Petitioner-Momin @ Kala, stated to be aged 40 years, has filed the present petition *inter alia* with a prayer for grant of regular bail in case FIR No.153 dated 18.07.2017, registered under Section 379 IPC, at Police Station Bilaspur, District Yamuna Nagar.

Learned counsel for the petitioner, based on the pleadings, submits that the petitioner is not named in the present FIR. He submits that the petitioner was initially arrested on 09.08.2017 in the present FIR. He was regularly appearing before the trial court prior to the grant of bail and even after the bail granted by the trial Court. Counsel further submits that in the present FIR, vide order dated 17.01.2018 (Annexure P-2) he was

granted regular bail by the learned SDJM, Bilaspur. Thereafter, for another 1 ½ year, the petitioner was appearing. However, since there were some other cases also in which he was stated to be allegedly involved, his counsel made a statement that on 15.05.2019, the petitioner could not appear. Learned counsel then makes specific reference to Para 7 of the petition to submit that on 06.08.2019 the petitioner was arrested and produced before the trial Court. At this stage, counsel submits that he was in fact also produced in other cases, where the petitioner was named. Learned counsel then submits that he has been behind bars since that date.

On instructions from SI Chander Pal, learned State counsel submits that a perusal of Para Nos.4 & 7 of the order dated 08.09.2020 (Annexure P-5), passed by the learned Additional Sessions Judge, Yamuna Nagar at Jagadhri, it becomes evident that the petitioner is a habitual offender. He further submits that charges in this case were framed on 24.10.2017 and there are total of 13 witnesses, out of which none has been examined till date.

Faced with the situation, learned counsel for the petitioner submits that the petitioner belongs to a poor family and he would give an undertaking that he would not involve himself in any other case after today. Counsel further submits that he has instructions from the petitioner and his family members that they would furnish two sureties for Rs.5 lacs each and in the event, if the petitioner is found involved and found guilty in any other case after today, the above said amount be released and can be forfeited.

Learned counsel for the petitioner also submits that in view of the

COVID situation, detention of the petitioner in jail would be dangerous to his life and also the fact that trial is likely to take some time, the petitioner may be granted concession of regular bail.

In view of the peculiar facts noticed above and the present situation due to COVID-19 and also the fact that trial is likely to take some time, this Court deems it appropriate to direct release of the petitioner on regular bail to the satisfaction of Chief Judicial Magistrate/Duty Magistrate concerned, subject to his furnishing bail bonds/surety bonds.

In addition to the above said bail/surety bonds, accepting the offer made by counsel for the petitioner, the petitioner is directed to furnish two sureties for Rs.5 lacs each, before the trial Court which shall be kept as security during the trial to await further orders of the Court, within one month from the date of his release. He is directed to give an undertaking that in case, he is found involved in any other subsequent case (today onwards) and found guilty, the above said amount shall be forfeited and deposited in the Government Treasury. The above said amount shall be without prejudice to the defence of the petitioner before the trial Court.

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

Accordingly, the present petition stands disposed of.

(GIRISH AGNIHOTRI)
JUDGE

25.09.2020

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Whether speaking/ reasoned:
Whether Reportable:

Yes/No
Yes/No