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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.32222 of 2020 (O&M)

Decided on: 18.11.2020

Arshraj Singh

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Arun Gupta, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.3 dated 05.01.2020, for offence punishable under Sections 399, 402, 457, 380, 511, 427, 398, 458 of the Indian Penal Code, 1860 (in short 'IPC') and 25 of the Arms Act, registered at Police Station Jandiala, Amritsar (Rural), District Amritsar.

Counsel for the petitioner has relied upon the order dated 29.09.2020 passed in CRM-M No.20384 of 2020, granting regular bail to the co-accused of the petitioner namely Amarjit Singh and another. The operative part of the said order, reads as under:-

"It is the contention of learned counsel for the petitioners that although the petitioners are shown in the CCTV footage but there has been only an alleged attempt on their part to break open the ATM. He contends that the petitioners were arrested on the date of registration of the FIR i.e. 05.01.2020 and are in jail since then. Out of the 12 cited witnesses, none has been examined till ate. The co-

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accused of the petitioners, who according to the FIR, is the leader of the gang, namely Shamsher Singh @ Sheru has been granted the concession of bail by this Court on 13.08.2020 in CRM-M No.17053 of 2020. Counsel contends that the petitioners be granted the concession of bail as the trial is not likely to proceed or conclude in near future because of the prevailing pandemic.

On the other hand, learned counsel for the State submits that the petitioners have been seen in the CCTV footage. They were arrested at the spot and that the incidents with regard to the breaking open of the ATM are on the rise and, therefore, the petitioners be not granted the concession of bail.

I have considered the submissions made by the counsel for the parties and with their assistance, have gone through the records of the case.

It is true that the petitioners are said to be in the CCTV footage and were arrested at the spot, however, apart from the present case, there is no other case against the petitioners. Petitioners are in custody since 05.01.2020 i.e. for more than nine months. The trial is not likely to conclude in near future, especially in the light of the fact that none of the 12 witnesses cited by the prosecution has been examined. In the prevalent circumstances with reference to COVID-19, the possibility of the trial restarting in the near future appears to be bleak and, therefore, the present petition deserves to be allowed, especially when the co-accused of the petitioners namely Shamsher Singh alias Sheru has been granted the concession of bail.

The present petition is allowed.”

Counsel for the petitioner has further submitted that the petitioner is the first offender; he is not involved in any other case. It is further submitted that the allegations against the petitioner are identical

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as of the co-accused, who have been granted the concession of regular bail.

Counsel for the State has not disputed the factual position but opposed the prayer for bail. It is further submitted that as per the Custody Certificate, the petitioner is in custody for the last 10 months.

Without commenting anything on merits of the case, considering the fact that the co-accused of the petitioner have already been granted the concession of regular bail; the petitioner is not involved in any other case; the custodial interrogation of the petitioner is not required and the conclusion of the trial will take some time due to COVID-19 situation, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

18.11.2020

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Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No