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

CRM-M No. 39622 of 2019
Date of Decision: 24.09.2020

Gurbhej Singh

-Petitioner

Vs

State of Punjab and another

-Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Ms. Ankita Sambyal, Advocate,
for the petitioner.

Mr. R.P. Singh, D.A.G., Punjab.

RAJ MOHAN SINGH, J. (ORAL)

The case has been taken up for hearing through video-conferencing.

Petitioner seeks grant of regular bail under Section 439 Cr.P.C. in case bearing FIR No.48 dated 27.05.2009 under Sections 302, 307, 427, 435, 148, 149 IPC and under Sections 25/27 of Arms Act registered at Police Station Mamdot, District Ferozepur.

FIR was registered against six accused persons. During course of investigation, petitioner was found to be innocent. His name was kept in column No.2. Challan was presented against other co-accused.

In a criminal complaint under Sections 302, 307, 427, 435, 148, 149 IPC and under Section 25/27 of Arms Act filed by Arvinder Singh, accused including the petitioner were summoned vide order dated 09.06.2010 passed by Judicial Magistrate Ist Class, Ferozepur. Petitioner did not appear before the Judicial Magistrate Ist Class, Ferozepur and was ultimately declared as proclaimed offender on 06.09.2011.

Since the complaint was related to the same occurrence, therefore, challan in the FIR as well as complaint were clubbed under Section 210 Cr.P.C. and was treated as a State case vide order dated 05.01.2012.

Thereafter, co-accused were tried by the Court of Additional Sessions Judge, Ferozepur in Session Case No.61 of 20.10.2009 i.e. Session trial No.72 of 2014. All the co-accused were convicted and sentenced to undergo rigorous imprisonment for life along with fine under Sections 302, 149 IPC. Different convictions were recorded for other offences also, however, all the sentences were ordered to run concurrently.

In respect of status of the petitioner being that of proclaimed offender, FIR No.19 dated 13.02.2016 under Section 174-A IPC, Police Station Mamdot was recorded. Petitioner has been granted bail in the said FIR on 30.01.2019. Petitioner was also granted bail in FIR No.126 dated 12.12.2018 under Section

25/54/59 of Arms Act and was released on bail on 30.01.2019.

Petitioner was arrested in December, 2018 in the present case.

Learned counsel for the petitioner submits that since the petitioner was declared innocent in the FIR and it is only on account of Section 210 Cr.P.C., complaint was clubbed with FIR and petitioner was arrested after declaring him as proclaimed offender.

The case of the petitioner is distinguishable from five co-accused who have been convicted because the said co-accused were not declared as innocent in the FIR, rather challan was presented against them.

Factual matrix of the case could not be disputed by learned State counsel, however, he opposed the bail on the ground that the petitioner remained as proclaimed offender for more than 08 years and the co-accused have been convicted and sentenced after clubbing of FIR with criminal complaint.

In the criminal complaint, petitioner was also summoned along with co-accused, therefore, complicity of the petitioner cannot be segregated from that of co-accused who have been convicted and sentenced.

Having heard learned counsel for the parties, at this stage, without adverting to the merits of the case, it can be

appreciated that the petitioner was found to be innocent in FIR and his name was placed in column No.2. It was only in a criminal complaint that the petitioner was summoned along with others.

Complicity of the petitioner would remain debatable.

At this stage, without making any final opinion on the merits of the case, it would be just and appropriate to enlarge the petitioner on regular bail.

In view of above, the petition is allowed. Petitioner is directed to be released on regular bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of trial Court/concerned Duty Magistrate.

Nothing expressed hereinabove would be construed to be an opinion on the merits of the case.

24.09.2020
Jyoti Sharma

(RAJ MOHAN SINGH)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No