

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

**CRM-M No.41348 of 2019 (O&M)
Date of Decision: 24.02.2020**

Arshad son of Abdul Hamid

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Talim Hussain, Advocate for the petitioner.

Mr. Pramjeet Singh, AAG, Haryana for the respondent/State.

MAHABIR SINGH SINDHU, J. (Oral)

Third petition has been filed under Section 439 of the Code of Criminal Procedure (*for short 'Cr.P.C.'*) for grant of bail pending trial to the petitioner in FIR No.087 dated 21.06.2017 (P-1), under Section 25 of the Arms Act, 1959 and Section 379A of the Indian Penal Code, 1860 (*for short 'IPC'*) (Sections 395 & 397, IPC added and Section 379A, IPC dropped later on), registered at Police Station Bichhore, District Nuh (Mewat).

The case of the prosecution is that on 16.06.2017, complainant-Krishna Digvijay Singh, resident of Rohini, Delhi saw an advertisement on OLX website for sale of Swift Car, showing contact number 8684874302 in the name of one Rajvir. The complainant party came at Dallabas Chowk to purchase the said Car. One person on Deluxe motorcycle came there to

receive the complainant party and said that the Car is parked at the house, upon which, they followed him. After some distance, said person stopped his motorcycle and said that the Car was parked there. Complainant stopped their vehicle and said person pulled out the key of the same. In the meantime, his four accomplices also reached there. Out of them, three persons sat in the vehicle of complainant and two, namely, Shokin and Arshad also came there on a bike of white colour, make Apache, which was without any registration number. At about 03:30 PM, the accused persons looted Rs.2 Lakh as well as one gold chain worth Rs.50,000/- on the point of weapon and fled away from the spot. Hence, the present case.

It is contended on behalf of the petitioner that he is in custody since 21.06.2017 and although as on today, the entire prosecution evidence is over, but on account of the pendency of an application under Section 311 Cr.P.C. moved by the co-accused, namely, Arshad s/o Sulekhan, the trial is unnecessarily delayed and petitioner is being incarcerated for an indefinite period. Also contended that out of total six accused, five have already been granted bail either by this Court or the trial Court.

On the other hand, learned State Counsel, on instructions from the police official present in the Court, has acknowledged the factum of granting the concession of bail to the other co-accused, but opposed the prayer on the ground that there are other cases pending against the petitioner.

Heard learned Counsel for the parties and perused the paper-book.

Undisputedly, petitioner is in custody since 21.06.2017; he is facing nine other criminal cases, but he is stated to be on bail in all those cases. Since the prosecution evidence is already over and the case is being delayed only on account of the pendency of application, moved by the co-accused under Section 311 Cr.P.C. More particularly, five other co-accused of the petitioner have already been granted the concession of bail, therefore, there is no justification to prolong the incarceration of the petitioner. Consequently, without expressing any opinion on the merits of the case, the present petition is allowed. Petitioner be admitted to bail on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

Petitioner shall fully co-operate with the learned trial Court and shall not unnecessarily delay the proceedings in any manner.

The above observations may not be construed as an expression of opinion on the merits of the case.

It is clarified that in case there is any recurrence on the part of the petitioner, State of Haryana would be at liberty to move an appropriate application for recalling of this order.

February 24, 2020

Gagan

**(MAHABIR SINGH SINDHU)
JUDGE**

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>