

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

**CRM-M-48638 of 2019
Date of Decision:-28.02.2020**

Kuldeep @ Somi

...Petitioner

Versus

State of Haryana

...Respondent

CORAM:- HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Vikram Singh Chauhan, Advocate
for the petitioner.

Mr. Munish Sharma, AAG, Haryana.

JASGURPREET SINGH PURI J.(Oral)

Petitioner-Kuldeep @ Somi has filed the present petition under Section 439 Cr.P.C. for grant of regular bail pending trial in case FIR No.0777 dated 30.12.2017, under Sections 395 and 397 of IPC and Section 25/54 of Arms Act, registered at Police Station Bhiwani Sadar, District Bhiwani.

Learned counsel for the petitioner has *inter alia* argued that in the present case the petitioner is in custody since 07.6.2019 and in the present case the charges have already been framed on 17.9.2019 and he has further submitted that out of total 17 witnesses, 09 have been examined by the prosecution in which the complainant and the witness of the occurrence have already been examined. He has stated that the complainant, namely,

Satish in his cross examination has stated that he can identify the real assailants who had snatched his Bolero vehicle and cash but the petitioner is not one of that person. He has further relied upon the cross-examination of the statement of Naseeb, who was witness of the occurrence in which he has stated that he has seen the petitioner/accused first time in the Court. In other words the main complainant and the witness of occurrence already turned hostile in the present case. He has further submitted that the petitioner is in custody since 07.6.2019, therefore, he may be considered for grant of regular bail.

Per contra learned State counsel on instructions from ASI Ramesh Kumar not disputed the custody period of the petitioner and also the statements of the complainant as well as witness of the occurrence, given before the trial Court as PW2 and PW3 respectively. But he has stated that the petitioner is involved in five other cases.

Learned counsel for the petitioner has also produced the certified copies of statements of PW3 and PW2 respectively. Same are ordered to be taken on record. Registry to tag the same at appropriate place.

To a query put to learned counsel for the petitioner, he has stated that out of these five cases the petitioner has already been acquitted in three cases and in remaining two cases he is on bail and those cases are pertaining to Sections 147, 149, 323, 341 and 506 IPC. Learned State counsel has stated that out of remaining two cases, in one case there are allegations of snatching and in other allegations of kidnapping are levelled.

I have heard learned counsel for the parties and perused the records.

The charges in the present case have already been framed on 17.9.2019 and out of total 17 witnesses, 09 witnesses have been examined and out of these material witnesses, complainant and the witness of the occurrence failed to identify the petitioner in Court as per statements shown in the Court. The learned State counsel on instructions from ASI Ramesh Kumar stated that all the material witnesses have since been examined and the rest of the witnesses are formal witnesses. It is not a case of State counsel that in which the petitioner is released on bail then he may tamper with any record or influence any witnesses.

Therefore, considering the totality of circumstances of the case, I deem it fit and appropriate to admit the petitioner on bail. Resultantly, the present petition is allowed. It is ordered that the petitioner shall be released on regular bail on his furnishing bail bond/surety to the satisfaction of the learned trial Court.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

February 28, 2020
Vijay Asija

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes / No
Yes / No