

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

(206)

CRM-M-3458-2021

Date of Decision: January 29, 2021

Mohammad Shareef

.. Petitioner

Versus

State of Punjab

.. Respondent

(Through video conferencing)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ravinder Singh Bains, Advocate, for the petitioner.

Mr. Harbir Sandhu, Assistant Advocate General, Punjab.
(keeping in view the service of advance copy of petition).

HARSIMRAN SINGH SETHI, J.(ORAL)

Present petition has been filed under Section 439 Cr.P.C for the grant of regular bail to the petitioner in respect of FIR No.0007 dated 07.02.2019 under Section 25 of the Arms Act, 1959 and Sections 10, 13, 15, 16, 17, 18 and 18-B of Unlawful Activities (Prevention) Act, 1967 registered at Police Station Balachaur, District S.B.S Nagar, Punjab.

Learned counsel for the petitioner submits that the petitioner was not named in the FIR and co-accused Gurdeep Singh @ Deep @ Chota Kutra was named alongwith others in respect of the allegations alleged therein. Learned counsel for the petitioner further submits that the petitioner was roped in on the basis of the disclosure statement of co-accused Gurdeep Singh @ Deep @ Chota Kutra. Learned counsel for the petitioner further submits that main accused namely Gurdeep Singh @ Deep @ Chota Kutra has already been granted the benefit of regular bail by this

Court while deciding CRM-M-2893-2020 on 05.01.2021 (Annexure P-7) and therefore, keeping the petitioner behind the bars serve no purpose and the petitioner is entitled for the relief of bail as being extended to main accused Gurdeep Singh @ Deep @ Chota Kutra on the ground of parity.

Notice of motion.

Mr. Harbir Sandhu, learned Assistant Advocate General, Punjab, who has joined the proceedings through video conference, keeping in view the service of advance copy of petition, accepts notice on behalf of the respondent-State. Learned counsel for the respondent-State does not dispute the fact that the petitioner was not named in the FIR and was only roped in on the basis of the disclosure statement of the main accused Gurdeep Singh @ Deep @ Chota Kutra.

Learned counsel for the respondent-State further concedes that there is no differentiating circumstances in respect of the allegations alleged against the main accused Gurdeep Singh @ Deep @ Chota Kutra and the petitioner. It is conceded by the learned counsel for the respondent-State that Gurdeep Singh @ Deep @ Chota Kutra has been extended the benefit of bail by this Court.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

Once, it is not disputed that the petitioner was not named in the FIR and was only roped in on the basis of the disclosure statement of co-accused Gurdeep Singh @ Deep @ Chota Kutra, which statement is yet to be proved during the trial, the petitioner has made out a case for the grant of regular bail especially considering the fact that the main accused, who named the petitioner in the disclosure statement, has already been granted

the benefit of bail by this Court while deciding CRM-M-2893-2020 on 05.01.2021. The order passed by this Court is as under:-

“Case has been taken up for hearing through Video Conferencing.

Present petition under Section 439 Cr.P.C is for grant of regular bail to petitioner-Gurdeep Singh @ Deep in case F.I.R. No.07 dated 07.02.2019 under Section 25 of Arms Act and Sections 10, 13, 15, 16, 17, 18 and 18-B of Unlawful Activities (Prevention) Act, 1967, registered at Police Station Balachaur, District SBS Nagar, Punjab.

Custody certificate filed and the same is taken on the record.

Learned counsel for the petitioner inter alia contends that petitioner has no nexus whatsoever with the alleged offence. He further submits that petitioner is in custody since 07.02.2019 and he is no more required by the Police for any investigation purpose. He further submits that challan has already been presented in the Court. He further urges that since trial of the case would take sufficient time to conclude, no useful purpose would be served by keeping the petitioner in custody further and he may be released on bail.

On the other hand, learned State counsel while opposing instant petition has vehemently argued that keeping in view seriousness of offence, petitioner does not deserve the concession of bail.

I have heard learned counsel for the parties.

At this stage, without commenting anything on the merits of the case lest it may prejudice the outcome of the trial but taking into consideration the fact that petitioner is in custody since 07.02.2019; that trial of the case would take sufficient time to conclude, no useful purpose would be served by detaining the petitioner in custody further, thus, he deserves the concession of bail.

In view of above, instant petition for grant of regular bail moved by petitioner- Gurdeep Singh @ Deep is allowed and he is ordered to be released on bail on his furnishing personal/surety bonds to the satisfaction of Trial Court/Chief Judicial Magistrate/Duty Magistrate, SBS Nagar, Punjab, as the case may be.”

Learned counsel for the respondent-State has not been able to point out any dissimilarity between the petitioner and the co-accused Gurdeep Singh @ Deep @ Chota Kutra so as to deny the petitioner the benefit of parity for the grant of bail rather it is conceded that allegations alleged against the petitioner are at a lower footing as compared to the main accused Gurdeep Singh @ Deep @ Chota Kutra who has already been extended the benefit of bail.

Keeping in view the above, the petitioner has made out a case for the grant of regular bail.

In view of the above and without commenting upon the merits of the case, it is directed that the petitioner be released on regular bail, subject to the satisfaction of the trial Court/Duty Magistrate concerned.

Learned counsel for the petitioner undertakes that petitioner will not influence trial in any manner including influencing the witnesses and in case of default of the above undertaking, State will be at liberty to approach this Court for passing appropriate orders.

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

(HARSIMRAN SINGH SETHI)
JUDGE

January 29, 2021
harsha

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No