

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

**CRM-M-16946-2021
Date of decision: 29.10.2021**

Kamal @ Kala

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. J. P. Jangu, Advocate
for the petitioner.

Mr. Deepak Kumar Grewal, DAG, Haryana.

(Through video conferencing)

ARVIND SINGH SANGWAN, J. (Oral)

This petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No.611 dated 20.07.2018, for offence punishable under Sections 392, 397 of the Indian Penal Code (in short 'IPC') and 25 of the Arms Act registered at Police Station Civil Lines, District Karnal.

Learned counsel for the petitioner relies upon order dated 05.10.2021 passed in CRM-M-22439-2021, vide which, co-accused of the petitioner, namely Shekhar @ Maya, has already been granted concession of regular bail by this Court. The operative part of the order reads as under:

“Counsel for the petitioner has argued that as per the allegations in the FIR, the petitioner along with his co-accused has committed the offence of robbery by entering the office of the complainant and by putting the employee of the complainant at gun point has taken away cash of Rs.24.68 lacs along with some other articles. It is

further submitted that the petitioner was arrested after the disclosure statement of the co-accused Kamal @ Kala. It is also submitted that the petitioner was already in custody in other case when he was taken on production warrant in this case and was arrested in pursuance of the disclosure statement of the petitioner, which was recorded later on, only an amount of Rs.5300/- was recovered from him.

Counsel for the petitioner has lastly submitted that the alleged pistol used in the offence, has already been recovered in another FIR by Delhi Police.

Counsel for the State has filed the Custody Certificate today in the Court and as per the Custody Certificate, the petitioner is in custody for the last 02 years and 01 month and he is involved in some other cases in different Police Stations of Delhi wherein he has shown to be undertrial before the Juvenile Justice Board.

The Custody Certificate further show that the petitioner is on bail and in one or two cases, he has been discharged. Lastly, counsel for the State has submitted that till date, no PW has been examined so far in this case and therefore, he has opposed the prayer for bail on the ground that the statement of the complainant is yet to be recorded.”

For the sake of brevity, the facts are not reproduced here again.

Learned counsel for the petitioner submits that the petitioner is also in judicial custody for the last about 02 years and 10 months and till date, no prosecution witness has been examined and the petitioner is not involved in any other case of similar nature.

Learned State counsel could not dispute the factual position that the case is still at the stage of recording the evidence of prosecution witnesses, however, none has been examined so far.

After hearing learned counsel for the parties, considering the fact that petitioner is in judicial custody for the last 02 years, 10 months and 05 days; he is not involved in any other case of similar nature; co-accused of the petitioner has already been granted the concession of regular bail as noticed about and also in view of the fact that conclusion of trial is likely to take a long time as no prosecution witness has been examined so far, case, the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaqua Magistrate, concerned.

29.10.2021*Waseem Ansari***(ARVIND SINGH SANGWAN)
JUDGE***Whether speaking/reasoned**Yes/No**Whether reportable**Yes/No*