

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-18807-2021

Date of decision: 23.08.2021

Devender @ Devi

...Petitioner(s)

Versus

State of Haryana

...Respondent(s)

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

Present: Mr. Keshav Pratap Singh, Advocate, for the petitioner.

Mr. Deepak Manchanda, Addl. AG, Haryana.

JASGURPREET SINGH PURI, J.(Oral)

The present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in FIR No.94 dated 22.02.2009, under Sections 148,149,323,325,307,452 and 506 of Indian Penal Code, 1860, registered at Police Station Surajkund, District Faridabad.

Learned counsel for the petitioner has submitted that in the present case the trial of the main case had already been completed against 20 accused persons and the learned trial Court has acquitted all of them. He submitted that so far as the petitioner is concerned, he was declared Proclaimed Offender on 18.12.2009 and he was not aware of the pendency of the case because of the fact that the petitioner was not even named in the FIR and the acquittal of the other co-accused had taken place in the year

2013 and thereafter, when he came to know with regard to the fact that his name was later on nominated, then he himself surrendered before the Court on 24.02.2021 and challan qua him was presented on 16.04.2021 and he is in custody since the date of his surrender. He submitted that the petitioner was living in the same village but the police did not even bother to inform him with regard to the pendency of the case and vide order dated 21.05.2021 this Court had rather directed the State to file an affidavit as to how the Investigating Agency failed to arrest the petitioner for as long as 13 years despite the fact that he was living in the same village.

Learned counsel submitted that affidavit has been filed by the Assistant Commissioner of Police is totally evasive. In para No.2 of the affidavit it has been simply stated that several efforts were being made for arresting the accused but he could not be arrested and thereafter he was declared as a Proclaimed Offender.

Learned counsel further submitted that the petitioner is innocent and was not even aware of the proceedings against him in the FIR as well as the proceedings of PO against him and has already suffered incarceration for more than 6 months and, therefore, he may be considered for the grant of regular bail particularly in view of the fact that all the 20 accused have already been acquitted by the learned trial Court.

Mr. Deepak Manchanda, Addl. A.G. Haryana has not disputed the factual position with regard to the custody of the petitioner and also with regard to the fact that all the accused have already been acquitted by the learned trial Court.

I have heard the learned counsel for the parties.

Considering the totality of circumstances of the present case, I deem it fit and proper to grant bail to the petitioner particularly in view of the fact that all the accused have already been acquitted by the learned trial Court and it is not the case of the State that in case the petitioner is released on bail then he may influence any witness or may tamper evidence or may flee from justice.

Consequently, the present petition is allowed. The petitioner shall be released on regular bail subject to furnishing bail bonds/surety to the satisfaction of the learned trial Court/Duty Magistrate concerned.

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.

(JASGURPREET SINGH PURI)
JUDGE

23.08.2021
rakesh

whether speaking	:	Yes/no
whether reportable	:	Yes/no