

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-21752-2021

Date of Decision: 07.06.2021

Pardeep

....Petitioner(s)

Versus

State of Haryana

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Madan Sandhu, Advocate for
Mr. Ajay Shekhawat, Advocate, for the petitioner.

Mr. Saurabh Girdhar, Assistant Advocate General, Haryana.

Through Video Conferencing

JASGURPREET SINGH PURI, J. (Oral)

The present petition has been filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in case bearing FIR No. 150 dated 08.06.2020 registered under Sections 148, 149, 302, 201, 216, 420 and 120-B of the Indian Penal Code, 1860 and under Section 25 of Arms Act, 1959, registered at Police Station Kasola Sadar, District Rewari.

The learned counsel for the petitioner has submitted that in fact in the present case the petitioner was arrested only under Section 216 IPC for harbouring the accused. He has submitted that he had applied for bail before the learned trial Court which was granted to him on 01.07.2020 considering the fact that the offence under Section 216 IPC qua the petitioner was a bailable offence. Thereafter, the petitioner could not appear

before the learned trial Court on 15.02.2021 and 17.03.2021 and thereafter non-bailable warrants were issued against the petitioner. He has submitted that the petitioner is a resident of village Buhana, Tehsil Buhana, District Jhunjhunu, Rajasthan and due to the prevailing Covid-19 pandemic and other personal reasons the petitioner could not appear before the learned trial Court on the date fixed. He further submitted that apart from the same it was due to mis-communication with his counsel regarding the next date of hearing that he missed both the dates and it was a bonafide mistake only. He further submitted that when the petitioner realized his mistake that he had missed two dates, he immediately surrendered himself before the Court on 22.04.2021 and since then he is in custody. He has referred to para No.5 of the petition wherein the details have been provided in the petition itself. He has submitted that the absence from the learned trial Court was neither intentional nor deliberate but it was only a mistake due to mis-communication and apart from this because of the Covid-19 pandemic the communication could not be established with the counsel. He further submitted that the petitioner has himself surrendered before the Court his bonafide cannot be doubted and furthermore, the offence under which he has been arrested is a bailable offence.

On the other hand, Mr. Saurabh Girdhar, learned counsel for the State has submitted that the petitioner has absented twice before the learned trial Court and, therefore, he is not entitled for the benefit of bail.

I have heard the learned counsel for the parties.

The petitioner was arrested under Section 216 IPC which is a bailable offence and he was granted bail by learned trial Court but he did not present himself on two dates and thereafter, he himself had surrendered

before the learned trial Court and since then he is in custody. The learned State counsel has not been able to doubt the bonafides of the petitioner with regard to his averment that it was due to mis-communication of date and non-communication with the counsel. Furthermore, it is not the case of the State that in case the petitioner is released on bail then he may tamper with evidence or may influence any witness or may flee from justice particularly in view of the fact that he himself surrendered before the learned trial Court and the offence being bailable offence.

Therefore, without commenting on the merit of the case and considering the totality of circumstances in the present case, 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.

07.06.2021

rakesh

(JASGURPREET SINGH PURI)**JUDGE**

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