

CRM-M-21908-2021 (O&M)
Date of Decision : 19.07.2021

...Petitioner

Versus

....Respondent

Coram : Hon'ble Mr. Justice B.S. Walia

Present : Mr. Simranjeet Singh, Advocate for the petitioner.

B.S. Walia, J. (VC)

1. Case is being taken up for hearing through Video Conferencing due to Covid-19 pandemic.
2. Prayer in the petition under Section 439 Cr.P.C is for grant of regular bail to the petitioner in case FIR No. 6 dated 04.01.2021, registered under Sections 399/402 IPC at Police Station Bhuna, Fatehabad to which Section 25/54/59 Arms Act were added in the Challan.
3. Learned counsel contends that the petitioner was arrested on 01.01.2021 on false allegations of planning to rob passerby's on the basis of secret information without associating any independent witness, investigation is complete, Challan has been presented, Charges have been framed, there are 10 PWs, case is fixed before the learned trial court for 07.09.2021 for recording evidence of the PWs, trial is likely to take considerable period of time, therefore no useful purpose would be served

by keeping the petitioner behind bars.

4. Notice of motion.

5. Mr. Pawan Kumar Longia, DAG, Haryana accepts notice and contends that the petitioner is involved in other cases, therefore is not entitled to be released on bail. Details of the same are as under :-

(I) FIR No. 747 dated 03.12.2002, under Sections 61-1-14 Ex. Act PS City Sirsa.3

(ii) FIR No. 672 dated 28.03.2002 under Sections 61-1-14 G Act, PS City Sirsa.

(iii) FIR No. 64 dated 11.04.2011 under Section 379 of IPC, PS Kesri Sinhpur, Ganganagar.

(iv) FIR No. 180 dated 29.06.2018 under Sections 379/429 IPC and 11A-59-60 of Prevention of Cruelty to Animal Acts, PS City Sangrur, Punjab.

6. Per contra, learned counsel for the petitioner contends that the petitioner was acquitted in case FIR No. 747 dated 03.12.2002 and FIR No. 672 dated 28.03.2002 respectively while in the other two cases he is on bail. Learned Counsel further contends that co-accused, Mukesh, who was alleged to be in possession of iron pipe of 3ft. 4 inch length and Praveen Kumar who was alleged to be in possession of wooden stick of 2ft. 11 inch length, have been granted regular bail by the Court of the learned Sessions Judge, Fatehabad vide order dated 01.04.2021 and 08.04.2021 respectively.

7. I have considered the submissions of learned counsel for the parties.

8. No doubt, the co-accused were released on regular bail on account of not having any other criminal case registered against them whereas the

petitioner is facing trial in two cases i.e. FIR No.64 dated 11.04.2011 under Section 379 IPC, PS Kesri Singhpur, Ganganagar and FIR No. 180 dated 29.06.2018 under Sections 379/429 IPC and 11A-59-60, Prevention of Cruelty to Animals Act, PS City Sangrur, Punjab but he is on bail in said cases while he has been acquitted in the remaining two cases under the Excise Act and Gambling Act.

9. Accordingly, taking into account the position noted above, but without commenting upon the merits of the case, the petition is allowed and petitioner-Mahender is ordered to be released on regular bail during the pendency of the trial subject to his furnishing bail/surety bond to the satisfaction of the learned trial Court/Chief Judicial Magistrate / Duty Magistrate concerned, provided he is not required in any other case. The petitioner shall also comply with the conditions contained in Section 437 (3) Cr. P.C. However, nothing stated hereinabove shall be construed as an expression of opinion on the merits of the case.

10. Needless to mention, in case the petitioner is involved in any other case while he is on regular bail in the instant case, the prosecution would be at liberty to move an application for cancellation of bail granted to the petitioner in the instant case.

11. Petition disposed of in the aforementioned terms.

(B.S. Walia)
Judge

19.07.2021

'Renu'

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