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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.29065 of 2021 (O&M)

Date of decision: 04.08.2021

Jagdish @ Sethi

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Harsh Bunker, Advocate
for the petitioner.

Mr. Deepak Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.241 dated 17.07.2016, for offence punishable under Sections 399, 402 of the Indian Penal Code, 1860 (in short 'IPC') and 25 of the Arms Act, registered at Police Station Dadri City, District Bhiwani.

Counsel for the petitioner has submitted that vide order dated 17.07.2017 passed in CRM-M No.17085 of 2017, the petitioner was granted the concession of regular bail by observing as under:-

“As per the allegations in the FIR, on 17.7.2017, a secret information was received by the parties that eight persons are planning for dacoity. It has been argued on behalf of learned counsel for the petitioner(s) that the arrest of the petitioner(s) Satpal and Jagdish was effected on the basis of the aforesaid secret information received by SI, Shamsher Singh in the raid conducted by the Investigating Officer. Petitioner-Satpal along with other

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co-accused i.e. Jagdish was arrested whereas two other co-accused escaped and could not be arrested. It is further submitted that from the petitioner-Satpal (CRM-M-17069-2017) a motor cycle has been recovered and a torch has been recovered from Jagdishpetitioner (CRM-M-17085-2017). It is further submitted that the petitioner(s) have been falsely implicated in the present FIR. Petitioner(s)-Jagdish is in custody since 17.7.2016 and Satpal is in custody since 2.8.2016.

Learned counsel for the petitioner(s) further contends that out of total 13 prosecution witnesses, no one has been examined till date, though a period of about 1 year has already elapsed. He has further referred to the orders dated 27.1.2017 passed in CRM-M-45575-2016, Sonu @ Gudhla vs. State of Haryana; the order dated 1.3.2017 passed in CRM-M-3395-2017, Ram Babu vs. State of Haryana and the other dated 6.7.2017 passed in CRM-M-20402-2017, Nitin vs. State of Haryana, vide which the other co-accused of the petitioner(s) have been granted the concession of bail.

Heard.

Considering the fact that the petitioner(s) are in judicial custody for about 1 year and are no more required for further investigation, challan has also been presented and till date no prosecution witness has been examined, the conclusion of the trial will take a long time, therefore, without commenting upon the merits of the case, both petitions are allowed.”

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

Counsel for the petitioner has further argued that thereafter, the petitioner was appearing before the trial Court regularly, however, he along with the co-accused Ram Babu absented from the Court proceedings due to some communication gap and their bail/surety

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bonds were cancelled and the petitioner was re-arrested on 04.02.2021.

Counsel for the petitioner has referred to the order dated 13.07.2021 passed in CRM-M No.24758 of 2021 granting bail to the co-accused Ram Babu, who also absented from the Court proceedings and has been granted the concession of regular bail. The operative part of the said order, reads as under:-

“Learned counsel for the petitioner contends that it is alleged that that the petitioner along with the other co-accused was planning to commit robbery. However, no overt act is attributed to the petitioner. The petitioner had earlier been granted regular bail in CRM-M-3395-2017 on 01.03.2017 by the coordinate Bench of this court. Thereafter, he was appearing before the trial court but he could not appear before the trial court on 06.07.2017 as he had been wrongly informed about the date and his bail bonds were cancelled. He has been declared as proclaimed offender. The petitioner is in custody for a total period of about 2 years which includes 1 year and 5 months after his rearrest. He also contends that the petitioner is a small pan shop owner, who has been implicated in several other cases which is also recorded in the order of the coordinate Bench dated 01.03.2017.

Learned State counsel, upon instructions from ASI Rajinder, contends that charges have been framed but none of the 13 prosecution witnesses has been examined. He also contends that the petitioner is also involved in several other cases.

Heard.

In view of the above, especially when no overt act is attributed to the petitioner, he is in custody for about 2 years, the COVID-19 pandemic and the conclusion of the trial is likely to take some time, I deem it a fit case to grant the concession of regular bail to the petitioner.”

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Counsel for the petitioner has also argued that it is admitted fact that till date, no PW has been examined as noticed in the order.

Counsel for the State on the basis of the Custody Certificate has not disputed the factual position but opposed the prayer for bail. It is further submitted that the petitioner is in custody for about 01 year and 06 months including the period when he was re-arrested.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody for a period of about 01 year and 06 months; the custodial interrogation of the petitioner is not required and the conclusion of the trial will take some time due to COVID-19 situation, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

04.08.2021

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No