

CRM-M-33481-2021

Date of decision: 14.10.2021

Aaskeen

.... Petitioner

Versus

State of Haryana

..... Respondent

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

Present: Mr. Saleem Ahmed, Advocate for the petitioner.
Mr. Gurbir Dhillon, AAG, Punjab.

B.S. Walia, J. (Oral)

[1] Prayer in the petition under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case FIR No.053 dated 07.02.2021 registered under Sections 455, 307, 120-B IPC 1860 and Section 25 Arms Act, 1959 at Police Station Manesar, District Gurugram.

[2] Learned counsel contends that no overt act is attributed either to the petitioner or co-accused Sahud, Siraju @ Pappu and Istak against whom identical allegations were levelled and said Siraju @ Pappu and Istak have been released on regular bail by the learned trial Court and High Court respectively on 01.02.2019 and 05.08.2021.

[3] Learned counsel contends that the petitioner was implicated in the case solely on the basis of disclosure statement of co-accused Siraju @ Pappu, while he was in police custody and that apart from the disclosure statement, there is no other material to connect the petitioner with the commission of the offence.

[4] Learned counsel further contends that co-accused-Sahud had

also been implicated in the instant case on the basis of disclosure statement

of co-accused Siraju @ Pappu but said co-accused Sahud has now been acquitted vide judgment Annexure P/3 dated 28.02.2019 by the learned Additional Sessions Judge, Gurugram.

[5] Learned State counsel on instructions from SI Sushil confirms the aforementioned factual position but contends that the petitioner was declared a proclaimed offender on 28.02.2018 and was arrested only on 12.05.2021.

[6] Learned counsel for the petitioner further contends that the investigation is complete, challan has been presented, though charges are yet to be framed and the petitioner is in custody since 12.05.2021, trial would take long time to conclude, therefore, in the circumstances, no useful purpose would be served by keeping the petitioner behind bars.

[7] I have considered the submissions of learned counsel for the parties. Without commenting upon the merits of the case but by taking into account all aspects of the matter including that co-accused, Sahud, who was also implicated on the basis of disclosure statement of co-accused Siraju @ Pappu, has been acquitted, and the petitioner has been implicated in the instant case solely on the basis of disclosure statement of co-accused Siraju @ Pappu, while he was in police custody and that apart from the disclosure statement, there is no other material to connect the petitioner with the commission of the offence, the petitioner is in custody since 12.05.2021, challan has been presented, though charges are yet to be framed, I am of the considered view that no useful purpose would be served by keeping the petitioner behind bars.

[8] Resultantly, the petition for regular bail is allowed and the petitioner is ordered to be released on regular bail during the pendency of the

trial, subject to his furnishing bail/surety bonds to the satisfaction of the learned CJM/Trial Court/Duty Magistrate, concerned, provided he is not required in any other case. It is also made clear that the petitioner shall appear before the learned trial Court on each and every date and shall also abide by the conditions contained in Section 437 (3) Cr.P.C.

[9] Needless to mention, in case of violation of any of the conditions or involvement of the petitioner 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. However, nothing stated hereinabove shall be construed to be an expression of opinion on the merits of the case.

[10] Petition allowed in the aforementioned terms.

(B.S. Walia)
Judge

14.10.2021
'amit'

1. *Whether speaking/reasoned: Yes/No.*
2. *Whether reportable: Yes/No.*