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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.31335 of 2020 (O&M)
Decided on: 18.01.2021

Raja

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. S.S. Sandhu, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

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.179 dated 26.11.2019, for offence punishable under Sections 323, 379-B, 34 of the Indian Penal Code, 1860 (in short 'IPC') registered at Police Station Sadar Hoshiarpur, District Hoshiarpur.

Counsel for the petitioner has relied upon the order dated 30.09.2020 passed in CRM-M No.14245 of 2020, vide which the co-accused of the petitioner has been released on regular bail, by passing the following order:-

“Learned counsel for the petitioner submits that petitioner has falsely been implicated in this case on account of the fact that petitioner was arrested in another FIR No. 187 dated 30.12.2019, under Section 482 IPC and Section 22 of the NDPS Act, 1985 and thereafter, he was nominated in the present FIR.

Learned counsel further submits that petitioner has

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already been released on bail in the said FIR and the only evidence against him to involve in the present FIR is that during custody of the petitioner in FIR No. 187, the police has recovered a motorcycle which was allegedly used in commission of crime in the present FIR.

Learned counsel further submits that the identity of the petitioner is yet to be proved and as per the contents of the present FIR, it is mentioned that accused persons, who have committed the offence, were having muffled face.

Learned counsel further submits that petitioner is in judicial custody for the last about 08 months and 25 days; challan has been presented; the trial is not proceeding due to Covid-19 situation and the conclusion of the same will take a long time.

Learned State counsel has filed custody certificate and has not disputed the factual position as to how the petitioner was nominated as an accused in the present FIR. It is also not disputed that petitioner is on bail in aforesaid FIR No. 187.”

Counsel for the petitioner has further argued that the petitioner is in custody for the last more than 01 year and he is on bail in another FIR No.50 registered under the NDPS Act.

Counsel for the State has not disputed the factual position but opposed the prayer for bail on the ground that the allegation against the petitioner is that the accused persons have stolen the car of the complainant at gun-point and therefore, there are serious allegations against the petitioner.

Without commenting anything on merits of the case, considering the fact that the co-accused of the petitioner has already been granted the concession of regular bail; the petitioner is in custody for the last more than 01 year; the custodial interrogation of the

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petitioner is not required; no prosecution witness has yet been examined 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

18.01.2021

yakub

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No