

CRM-M No.34334 of 2020
Date of Decision : 28.07.2021

...Petitioner

Versus

....Respondent

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

Present : Mr. Vimal Kumar Gupta, Advocate for the petitioner.
Mr. Naveen Kumar Sheoran, DAG, Haryana.

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.39 dated 21.03.2020 registered under Sections 148, 149, 353, 186 and 307 IPC besides Section 25 Arms Act, 1959 at Police Station City Tauru, District Nuh.
3. Learned counsel contends that the aforementioned FIR was registered on the allegations that unknown persons had fired gun-shots upon police patrol party at Pataudi Chowk and thereafter fled from the spot in a red coloured car and it was on arrest of the petitioner and other accused in FIR No.102 dated 21.03.2020 under Sections 395, 397 and 307 IPC and Section 25 Arms Act, 1959 registered at Police Station Tauru that the petitioner is alleged to have made a confessional statement to the police of his involvement in the instant case and that apart from the

confessional statement made by the petitioner while in police custody, there is no other material to connect the petitioner with the commission of the offence, besides Test Identification Parade was also not got conducted, the petitioner is behind bars since 25.06.2020 in the instant case, though he is on bail in case FIR No.102 dated 21.03.2020, investigation is complete, Challan has been filed, though charges are yet to be framed, therefore, trial is likely to take considerable period of time, consequentially, no useful purpose would be served by keeping the petitioner behind bars.

4. Learned State Counsel on instructions from *SI Bhajan Lal*, confirms that the petitioner was arrested in the instant case, solely on the basis of confessional statement made by him while in police custody in case FIR No.102 dated 21.03.2020 registered under Sections 395, 397, 307 IPC and Section 25 Arms Act, 1959 and that apart from the aforementioned confessional statement, there is no other material to connect the petitioner with the commission of the offence, besides investigation in the case is complete, Challan has been filed, though charges are yet to be framed.

5. I have considered the submissions of learned counsel for the parties and in view of the petitioner having been arrested in the instant case, solely on the basis of confessional statement made by him while in police custody in case FIR No.102 dated 21.03.2020 registered under Sections 395, 397, 307 IPC and Section 25 Arms Act, 1959 and that apart from the aforementioned confessional statement, there is no other material to connect the petitioner with the commission of the offence, no

test identification parade was carried out, investigation in the case is complete, Challan has been filed, though charges are yet to be framed, consequentially, trial would take considerable time to conclude, the petition under Section 439 Cr.P.C. is *allowed* and petitioner-Surjeet @ Nakul is ordered to be released on regular bail during the pendency of the trial on his furnishing bail bond and 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. It is further made clear that if the petitioner is involved in any other case during the period while he is on bail in the instant case, prosecution would be at liberty to move an application for cancellation of bail granted to the petitioner in the instant case.

6. Petition allowed in the aforementioned terms.

(B.S. Walia)
Judge

28.07.2021

'Rajneesh/Amit'

<i>Whether speaking/ reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>