

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(214)

CRM-M-3459-2022

Date of Decision : February 10, 2022

Dev Parkash @ Gunga

.. Petitioner

Versus

State of Haryana

.. Respondent

(Through Video Conferencing)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Diwan S. Adlakha, Advocate, for the petitioner.

Mr. Gaurav Bansal, Assistant Advocate General, Haryana.
(keeping in view the advance copy given).

HARSIMRAN SINGH SETHI J. (ORAL)

Present petition has been filed under Section 439 Cr.P.C for the grant of regular bail to the petitioner in respect of FIR No.443 dated 15.12.2021 registered under Sections 148, 149, 285, 323, 506 of the IPC, 1860 (Sections 325 and 120-B of the IPC added later on), Section 3 of the Scheduled Castes and Secheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred as '1989 Act') and Section 25 of the Arms Act, 1959 at Police Station Chandhut, District Palwal.

Learned counsel for the petitioner submits that in the present case, the petitioner has falsely been implicated. Learned counsel for the petitioner further submits that the petitioner was not present at the site of incident but has been implicated on the basis of Section 120-B of the IPC

and as now the investigation is already over qua the petitioner, the petitioner may kindly be extended the benefit of regular bail as no useful purpose will be achieved in keeping the petitioner behind the bars during the entire period of trial.

Notice of motion.

Mr. Gaurav Bansal, learned Assistant Advocate General, Haryana, who has joined the proceedings through video conference, keeping in view the service of advance copy of petition, accepts notice on behalf of the respondent-State.

Learned State counsel submits that as the provisions of the Scheduled Castes and Secheduled Tribes (Prevention of Atrocities) Act, 1989 have been invoked, the petitioner has a remedy of filing an appeal under the said Act though, the appeal has also to be filed before this Court only. Learned State counsel further submits that in the present case, the allegation of pointing firearm so as to threaten the complainant is on the other co-accused but as the petitioner was part of the conspiracy, the allegations alleged against the other co-accused will also cover the petitioner as well and therefore, the prayer of the petitioner for the grant of regular bail may kindly be declined.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

Keeping in view the fact that it is a conceded position that the petitioner never participated in the incident, which occurred on 14.12.2021 and has only been implicated on the basis of alleged allegation of conspiracy, which fact is yet to be proved during the trial on the basis of the evidence, which will come on record during trial. As no injury has been

attributed to the petitioner in any manner and the allegation of violation of the Scheduled Castes and Secheduled Tribes (Prevention of Atrocities) Act, 1989, is upon the co-accused and not upon the petitioner, the petitioner has made out a case for the grant of regular bail especially when the investigation qua him is already over and the trial is likely to take some time before it concludes keeping in view the restricted working of the Courts due the pandemic of Covid-19 and the petitioner undertakes before this Court not to influence the trial or the witnesses in any manner.

With regard to the objection of the State counsel that the remedy of appeal is available under 1989 Act, keeping in view the facts of this case, the said objection is not being put into operation in the present case as the allegations under 1989 Act are against the co-accused not against the petitioner.

In view of the above and without commenting upon the merits of the case, it is directed that the petitioner be released on regular bail, subject to the satisfaction of the trial Court/Duty Magistrate concerned.

Learned counsel for the petitioner undertakes that petitioner will not influence trial in any manner including influencing the witnesses and in case of default of the above undertaking, State will be at liberty to approach this Court for passing appropriate orders.

However, it is made clear that anything observed herein shall not be construed to be an expression of any opinion on the merits of the case.

February 10, 2022
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : Yes