

208 **IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-16440-2021

Date of decision:17.03.2022

SURAJ

...Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. Paras Jagga, Advocate for the petitioner.

Mr. Tanuj Sharma, AAG, Haryana.

SURESHWAR THAKUR, J. (ORAL)

1. FIR No.0248 of 02.11.2020, constitutes therein offences under Sections 379-B, 392, 394 of IPC, 1860, and, under Sections 25, and, Section 54 of Arms Act, 1959, and, is lodged at Police Station Badli, District Jhajjar, therein the incriminating offences are attributed to be committed by the bail applicant.

2. In pursuance to the afore lodged FIR at the Police Station (supra), the bail applicant is in judicial custody. Consequently, through the instant application cast under Section 439 of the Cr.P.C., he claims relief for being ordered to be released from judicial custody.

3. The incriminatory role, as attributed to the bail applicant is qua his, alongwith co-accused Deepak, and, Partik hence, committing the afore offences. Co-accused Partik, upon his bail petition bearing CRM-M-24993 of 2021, and, as became cast under Section 439 Cr.P.C. became admitted to bail through orders made thereons, on 08.07.2021. The reason carried therein, was that since the period of incarceration of the bail applicant, therein was prolonged, and, also when the relevant recoveries of the amount

looted by him, comprised in a sum of Rs.9500/- became effectuated, at his instance to the investigating officer concerned, thereupon, he became admitted to regular bail.

4. Since the bail applicant has also ensured the recovery, at his instance to the investigating officer concerned, of a sum of Rs.8500/, which became looted by him alongwith other co-accused concerned, thereupon, he is entitled to a treatment, similar to the one as, meted to the co-accused/bail petitioner (supra). Learned State counsel on instructions meted to him, by ASI Sachin submits, that the period spent in judicial custody by the bail applicant, rather commenced from 09.11.2020. Given the afore prolonged period of judicial custody, and, also when all the relevant recoveries have been effectuated, at his instance, to the investigating officer concerned, besides when the investigations are complete, and, challan has been filed before the learned Judicial Magistrate concerned, therefore, this Court becomes constrained to admit the bail petitioner to regular bail.

5. However, he submits that since the accused bail applicant, is a habitual offender, hence, the facility of regular bail, as craved for, in the instant application, be not accorded to him.

6. Be that as it may, the imposition of stringent conditions, is rather deemed fit and appropriate, for being imposed upon the petitioner-bail applicant, necessarily as a measure to allay, the apprehension (supra), reared by the learned State counsel.

7. Consequently, it is not necessary to prolong the judicial incarceration of the bail applicant, as thereupon his personal liberty will come to unnecessarily fettered, and, curtailed. The instant petition is allowed, and, the petitioner-bail applicant is ordered to be released from

judicial custody. However, the granting of bail to the bail applicant-petitioner, is subject to his furnishing personal, and, surety bonds in the sum of ₹50,000/- each, before the learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned, and, also subject to his not tampering with prosecution evidence, and, his not influencing prosecution witnesses, and, besides also his appearing before the trial Court concerned, as and when directed to make his personal appearance. Further, subject to petitioner-bail applicant making an undertaking before the learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned, that in case, he re-indulges in criminal activities, whereupon, on breach thereof, the order made today, shall become *ipso facto* annulled, and, that, upon, his being forthwith arrested by the investigating officer concerned, the latter shall produce the petitioner-bail applicant before the trial Court concerned, for the latter making an order for his being put to judicial custody.

8. Copy dasti.

(SURESHWAR THAKUR)
JUDGE

17.03.2022

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Whether speaking/reasoned:-

Yes/No

Whether reportable:

Yes/No