

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

221

**CRM-M-16122-2022 (O&M)
Date of Decision: 05.05.2022**

MUKESH

... Petitioner

Versus

STATE OF HARYANA

... Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: Mr. Manoj Tanwar, Advocate
for the petitioner.

Mr. Kanwar Sanjiv Kumar, Asstt. A.G., Haryana.

VINOD S. BHARDWAJ, J. (ORAL)

Instant petition has been filed under Section 439 of the Cr.P.C. for grant of regular bail to the petitioner in case FIR No.8, dated 23.01.2022 under Sections 4 and 5 of Explosive Substances Act, 1908 and Section 188 of the IPC (Section 120-B IPC added later on), registered at Police Station Satnali, District Mahendergarh.

Learned counsel appearing on behalf of the petitioner *inter alia* contends that the case of the prosecution is based upon secret information, on the basis whereof a raid is stated to have been conducted at the house of the petitioner leading to recovery of white plastic bag wherein two explosive wires measuring 360 feet and 200 feet respectively alongwith 40 Gulla Explosive Make Neogel and 65 Gulla Explosive Make Indo Superpower were recovered. On account of the petitioner have failed to produce any licence or permit for being in possession of the said explosive substances/material, the FIR in question had been registered. Learned

counsel for the petitioner contends that the petitioner does not have any criminal antecedents and that he is engaged in the business of dealing of tube-wells. Learned counsel contends that the explosive substances, alleged to have been recovered from the petitioner, have never been used in any illegal activity i.e. likely to endanger human life or may be labeled as a possible terrorist activity. It is also urged that when the house of the petitioner was raided, no independent witness was joined by the police at that point of time.

Mr. Kanwar Sanjiv Kumar, Asstt. A.G., Haryana has pointed out the petitioner formed part of a group and that one Ramesh Kumar- co-accused, is a licensee who runs a Magazine and that his brother Ashok Kumar manages the same. The aforesaid persons used to further sell the explosives substance in an illegal manner to various persons indulging in the activity of illegal mining. It is contended that the petitioner had procured the said explosive substances from one Om Parkash, who was a distributor of the said explosives to various ultimate consumers. He, however, could not controvert the fact the petitioner is in custody since 23.01.2022 and that no recovery of any nature is now required to be effected from the petitioner. It is also not in dispute that the investigation in the case is complete and charges have already been framed. The case is now fixed for recording of prosecution evidence.

I have heard the rival submissions advanced by the learned counsel for the respective parties.

In view of the facts noticed above, the period of custody already undergone by the petitioner, which is nearly four months and also the facts that there are no criminal antecedents of the petitioner and that he has no involvement in other criminal activity or having deployed the explosive

substances as an end-user and taking into consideration the stage of trial, I deem it appropriate to allow the instant petition.

Accordingly, the present petition is allowed and the petitioner is admitted on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of Trial Court/Duty Magistrate, concerned.

It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

The observation made hereinabove shall not be construed as an expression on the merits of the case and the Trial Court shall decide the case on the basis of available material.

(VINOD S. BHARDWAJ)
JUDGE

05.05.2022
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No