

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.**

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CRM-M-22617-2022

Date of decision: 13.07.2022

JAVED @ JABID

.....Petitioner

Versus

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present : Mr. Saleem Ahmed, Advocate
for the petitioner.

Mr. Tanuj Sharma, AAG, Haryana
for the respondent-State.

SURESHWAR THAKUR, J. (ORAL)

1. The instant petition has been filed under Section 439 of Cr.P.C., wherein, the petitioners crave for indulgence of regular bail becoming granted to them, in respect of FIR No. 180 dated 05.09.2021 registered at Police Station Dhauj, District Faridabad, wherein, offences constituted under Sections 307, 34 of the IPC and Section 13(1) of HGSG Act and, Section 25/54/59 of the Arms Act, are embodied.

2. The incriminatory role, as assigned to the present bail petitioner is that he alongwith other co-accused illegally transported cows in a vehicle, and, upon the accused concerned, being attempted to be apprehended, the present bail petitioner through wielding a gun, unsuccessfully fired shots therefrom, at the complainant. Though, it was incumbent upon the investigating officer concerned, to during the course of his holding the present bail petitioner to custodial

interrogation, to ensure that the present bail petitioner makes recoveries of the incriminatory gun, to him, but the investigating officer completely failed to do so. However, yet the above failure can be overcome through may be a charge under Section 201 of the IPC becoming drawn against the accused concerned.

3. If so, and, also, when the recovery of the illegally transported cows in the vehicle concerned has been made, and, also the crime vehicle has been impounded.

4. Moreover, since at this stage, no evidence has been adduced by the prosecution, suggestive that in the event of the bail petitioner being admitted to regular bail, there is every likelihood of his fleeing from justice or tampering with prosecution evidence, or influencing prosecution witnesses, besides when the present bail petitioner stepped into the judicial custody, on 13.01.2022, therefore, his judicial incarceration is not required to be any further prolonged, as thereupon, his personal liberty would become unnecessarily fettered, and, curtailed.

5. However, the learned State Counsel has vehemently opposed the application, on the ground, that the bail applicant-petitioner is a habitual offender, thereupon there is every likelihood of the bail applicant-petitioner abusing the facility of bail, as may become accorded to him. Nonetheless, the vigour of the afore made submission, of the learned State Counsel, before this Court, can become mitigated, by imposition of stringent conditions, upon the bail applicant-petitioner.

6. Therefore, 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 Rs.1,00,000/- each, before the learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned, and, also subject to his not tampering with prosecution evidence, and, also his not influencing prosecution witnesses, and, besides his appearing before the trial Court concerned, as and when directed to make his personal appearance unless validly exempted. 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.

7. The afore observations are meant only for the disposal of the present petition, and, shall not affect the merits of the trial arising from FIR (supra).

13.07.2022
kavneet singh

(SURESHWAR THAKUR)
JUDGE

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