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

CRM-M-24344-2022(O&M)
Date of Decision: 18.11.2022

WAZIR

....Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Lalit Kumar Narang, Advocate
for the petitioner.

Mr. Amrik Narwal, DAG, Haryana.

HARSH BUNGER, J. (Oral)

CRM-44333-2022

For the reasons mentioned in the application, the same is allowed and the bail orders/interim orders passed in FIR No.706 & FIR No.186 are taken on record as Annexure P-7 and Annexure P-7/A respectively, subject to just exceptions.

CRM-M-24344-2022

Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.705 dated 19.10.2018 under Sections 148, 149, 323, 324, 379-B, 427, 452, 506 of Indian Penal Code, 1860 registered at Police Station Meham District Rohtak.

Custody certificate filed by the State is taken on record, subject to just exceptions.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and as per the contents of the

FIR, there are no allegations of snatching of any amount or jewellery attributable to the petitioner. It is submitted that no recovery was effected from the petitioner and offence under Section 379-B is not made out against the petitioner.

It is submitted that in the above-said case FIR No.705, the petitioner was granted regular bail and thereafter, the petitioner has been appearing regularly before the trial Court on every date.

It is submitted that on 21.04.2022 (Annexure P-2), the petitioner had moved an application for exemption from personal appearance before the trial Court, which was allowed and the matter was adjourned to 29.04.2022. It is further submitted that on the adjourned date i.e 29.04.2022, the petitioner again moved an application for exemption on medical grounds as the petitioner was suffering from diarrhoea and vomiting and was not in a position to appear before the trial Court. It is stated that said application filed for exemption of appearance on 29.04.2022 was wrongly dismissed by the learned trial Court, vide order dated 29.04.2022 (Annexure P-4) and the matter was adjourned to 13.05.2022. It is stated that on 13.05.2022, the petitioner moved an application for surrender and bail before the trial Court, however the same was dismissed, vide order dated 16.05.2022. Accordingly, the petitioner has filed the present petition seeking bail.

On 08.08.2022, learned State counsel sought time to file written reply and subsequently, reply by way of affidavit of Hemendra Kumar Meena, Additional Superintendent of Police, Meham, District Rotak has been filed on behalf of respondent/State of Haryana.

It has been stated in the affidavit that after completion of investigation, challan against the accused persons has been filed on 21.12.2019 and even the charges have been framed vide order dated

09.09.2019. It is submitted that there are total 10 witnesses in this case out of which three witnesses have already been examined. It is further stated that the petitioner (Wazir) is involved in two more cases i.e.

- (a) FIR No.275 dated 11/12/1990 U/s 323, 325, 34 IPC P.S. -Meham.
- (b) FIR No.40 dated 21/3/1995 U/s 302, 201 IPC P.S. -Meham.

Accordingly the bail application is opposed on the ground that petitioner is a habitual offender and does not deserve the concession of bail.

I have heard learned counsel for the parties and have gone through the paperbook.

Admittedly, the petitioner was granted regular bail in this case and thereafter the petitioner had been regularly appearing. On 29.04.2022, the petitioner moved an application for exemption from appearance before the trial Court on medical grounds as he was suffering from diarrhoea and vomiting and could not appear before the trial court, however, the said application was dismissed and non-bailable warrants were issued against the petitioner and the case was adjourned to 13.05.2022. On the very next date i.e. 13.05.2022, the petitioner moved an application before the trial Court for surrender and for grant of bail, however, the said application was dismissed on 16.05.2022 (Annexure P-5). Thus, the absence of petitioner was neither willful nor deliberate but on account of health reasons. Further, filing of application for surrender and bail on very next date i.e. 13.05.2022 show that petitioner was willing to join proceedings.

As per custody certificate filed by the learned State counsel, the petitioner is already on bail in the other two cases and in the instant FIR, the total custody period of the petitioner is more than six months. Since, the charges have already been framed and out of 10 witnesses, three already stands examined, the trial is likely to take a long time. Thus, no useful

purpose would be served by keeping the petitioner behind the bars.

At this stage, without commenting anything on the merits of the case, the instant petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing bail/surety bonds to the satisfaction of the learned Chief Judicial Magistrate/Illaqa Magistrate/Duty Magistrate concerned, if not required in any other case.

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

18.11.2022
Amandeep

(HARSH BUNGER)
JUDGE

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