

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

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**CRM-M-25710-2022
Decided on : 05.09.2022**

Khalid

... Petitioner(s)

Versus

State of Haryana

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Ram Singh Chaudhary, Advocate
for the petitioner.

Mr. Ashish Yadav, Addl. AG, Haryana.

SANJAY VASHISTH, J. (Oral)

The instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail to the petitioner – Khalid, who has been booked for having committed the offence punishable under Sections 148, 149, 332, 353, 186, 307, 427, 379 of IPC, in FIR No. 529, dated 18.12.2005, registered at Police Station City Hansi, District Hisar.

On the very outset, learned counsel for the petitioner submits that other three accused in this case namely Rahim Khan, Mahmood Khan and Chowan, faced trial and were acquitted vide judgment dated 19.02.2010, by the Court of learned Addl. Sessions Judge, Hisar (Annexure P-2), and out of these three, accused No.2 – Mahmood Khan, is the father of present petitioner. Thus, submits that chances of conviction of the petitioner also are not there in this case. Learned counsel further submits that it is a case, wherein, allegation of firing on police party, has been levelled without specifying the accused, who has actually fired upon the police.

Learned counsel for the petitioner further argues that since three of the accused, have already been acquitted, allegation of firing on police

party losses weight in itself, because, till date, this fact has not been proved by any evidence by the police during the course of the trial in Sessions case No. 9-SC of 2006 (P-2).

It is further submitted by learned counsel for the petitioner that he is inside jail since 11th December, 2021 and out of total 25 prosecution witnesses, only 03 prosecution witnesses, have been examined so far.

On the other hand, learned State counsel while opposing the prayer and submissions made by learned counsel for the petitioner, submits that as per details mentioned in para 11 of the reply filed by the State by way of affidavit dated 15.07.2022, there are total 11 cases including 05 cases under Section 174-A of IPC and in case, petitioner is granted concession of regular bail, he would again disappear and proceedings of the trial would block again.

Apart from this, there is no other explanation with the learned State counsel that once other three co-accused have been acquitted, what would be the sound evidence to prove guilt of the petitioner. Learned State counsel submits that this part would be proved during the course of trial of producing evidence before the trial Court.

After considering the submissions of both the sides, and perusing the material available on record with their able assistance, and in the totality of the circumstances that already there is a judgment of acquittal dated 19.02.2010 (P-2) *qua* three of the co-accused, burden of proving the case against petitioner would be very heavy upon the prosecution side, but petitioner cannot be kept inside for the said purpose, especially, when trial is moving very slow, as only 03 prosecution witnesses have been stated to be examined out of the total 25 prosecution witnesses.

In view of the aforementioned facts and circumstances of the

case and the submissions made by the parties, the present petition is allowed. Petitioner is ordered to be released on bail in this case, subject to his furnishing heavy bail/surety bonds to the satisfaction of the learned Trial Court/ Chief Judicial Magistrate/ Illaqa Magistrate/ Duty Magistrate concerned, if not required in any other case.

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 here-in-above 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 evidence available on record.

(SANJAY VASHISTH)
JUDGE

September 05, 2022

J.Ram

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No