

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

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CRM-M-27126-2022

Date of Decision: 06.07.2022

AJMER SINGH VASHISHT

... Petitioner

Versus

STATE OF HARYANA

... Respondent

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

Present: Mr. Nirmal Singh, Advocate
for the petitioner.

Mr. Ashish Yadav, Addl. A.G., Haryana.

VINOD S. BHARDWAJ, J. (ORAL)

Instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case FIR No.04, dated 05.01.2010 under Sections 120-B, 406, 420, 465, 468 and 471 of the Indian Penal Code, 1860, registered at Police Station Chandnibagh, District Panipat.

Learned counsel appearing on behalf of the petitioner *inter alia* contends that the petitioner was nominated in the aforesaid case that was registered at the instance of one Harish Kumar. It is contended that the petitioner faced the trial in the aforesaid case and thereafter was acquitted by the Judicial Magistrate Ist Class, Panipat on 01.07.2016. It is further contended that against the aforesaid judgment of acquittal, the respondent-complainant had preferred an appeal before the Court of Sessions. Vide judgment dated 02.09.2021, the judgment dated 01.07.2016 passed by the Judicial Magistrate Ist Class, Panipat was set aside by the Sessions Judge, Panipat and the matter was remanded back to the trial Court to pass a fresh

judgment/order by recording its findings on all the charges as levelled against the petitioner herein. The aforesaid judgment dated 02.09.2021 passed by the Sessions Judge, Panipat in Criminal Appeal No.70 of 2021 was the subject matter of challenge in Criminal Revision 1052 of 2021 before this Court. Vide judgment dated 29.11.2021 passed in the above mentioned Criminal Revision No.1052 of 2021, the judgment of the Sessions Judge, Panipat was set aside and direction was issued to the Sessions Judge, Panipat to decide the case itself on the basis of evidence already brought on record and to pass fresh judgment in accordance with law. The Criminal Appeal No.70 of 2021 was accordingly revived and the Sessions Judge, Panipat was directed to decide the same in a time bound manner preferably within a period of six months.

Learned counsel appearing for the petitioner contends that warrants were issued to secure the presence of the appellant, however, he was not aware of the same and upon being apprised about the same, he surrendered before the Court of Sessions on 02.06.2022 and he is in custody since then.

Learned State counsel, on the other hand, could not controvert the above mentioned factual position, however, he opposed the grant of bail to the petitioner on the ground that the petitioner voluntarily remained absent from the Court for a long time.

It is evident that the petitioner was earlier released on bail after registration of the case and thereafter, he was acquitted after facing trial. There is no allegation that the petitioner has ever misused the concession of bail granted earlier to him. It is also not the case of the prosecution that the

petitioner may abscond from process of law.

Taking into consideration the facts noticed above, the fact that the petitioner was earlier acquitted by the trial Court as also the fact that he has never misused the concession of bail granted earlier to him and also keeping in view the fact that the petitioner is in custody since 02.06.2022, I deem it appropriate to allow the present petition.

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

The observations made hereinabove shall not be construed as an expression on the merits of the case and the lower Appellate Court shall decide the case/appeal on the basis of its own merits.

Petition stands allowed accordingly.

(VINOD S. BHARDWAJ)
JUDGE

06.07.2022
rajender

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