

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-32204-2022

Date of Decision: 29.07.2022

Raju alias Raj Kumar.....Petitioner

Versus

State of Haryana..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

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Present: Mr. V.B.Godara, Advocate
for the petitioner.

Mr. Rohit Arya, DAG, Haryana.

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MANJARI NEHRU KAUL, J. (Oral)

This is sixth petition under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in FIR No.139 dated 25.04.2019 under Sections 392, 397 IPC and 25/54/59 of the Arms Act registered at Police Station Bhuna, District Fatehabad, Haryana.

Learned counsel submits that the petitioner is innocent and has been falsely implicated in the case in hand on the allegations that he along with the co-accused went to the shop of the complainant and after threatening him with a fire arm, robbed him of Rs.7,000/-. Learned counsel submits that since the investigation is complete in the case in hand and he has now been in custody for almost 03 years having been arrested on 07.08.2019, his further incarceration would serve no useful purpose. He also submits that only 03 out of the 20 prosecution witnesses cited have been examined. Learned counsel has placed reliance upon the judgment of the Supreme Court in *Union of India v. K.A.Najeeb* wherein the accused had

been extended the concession of bail on account of his long incarceration. Learned counsel submits that since petitioner too has been behind bars for almost 03 years, his case is covered by the observations made by the Supreme Court in *K.A.Najeeb's case (supra)* that courts should ordinarily be obligated to enlarge an accused on bail in case he has been incarcerated since long. He further submits that the complainant while stepping into the witness box did not support the case of the prosecution and was declared hostile.

Per contra learned State counsel has vehemently opposed the prayer and submissions made by the counsel opposite. He submits that the petitioner is a man of criminal antecedents as he is involved in 35 other criminal cases of similar nature. He further submits that the petitioner committed the crime in question while he was on bail in the other criminal cases which already stood registered against him. While drawing the attention of this court to the list of other criminal cases registered against him, he submits that out of the 35 cases, though he has been acquitted in some cases, however he has also been convicted in 08 cases. Learned State counsel further submits that no doubt the complainant did not support the case of the prosecution during trial but it was for reasons but obvious and his antecedents seemingly played a role in the complainant's turning hostile. A prayer has been made for dismissal of the instant petition in the wake of his antecedents and also the likelihood of the petitioner committing crimes of similar nature.

I have heard the learned counsel and perused the relevant material on record.

It is not disputed by the learned counsel for the petitioner that

he is indeed involved in as many as 36 cases, though he submits that he has been falsely implicated. However, this court can not lose sight of the fact that the crime in question was committed while he was on bail in other cases and that he, *prima facie*, misused the concession of bail. The reliance placed on ***K.A.Najeeb's case (supra)*** by the petitioner would not come to his rescue because it is not disputed, rather very fairly admitted by the learned counsel for the petitioner, that the accused therein was not involved in any other case.

It was vehemently argued by the learned counsel for the petitioner that his false implication in this as well as other cases found support from the fact that he had been acquitted in 12 cases. However, when he was pointedly asked whether the witnesses in those cases too had turned hostile, he feigned ignorance about the same. Learned State counsel however, on instructions, apprised that in some of those cases the witnesses had indeed resiled.

In the facts and circumstances of the case as enumerated herein above, particularly keeping in view the criminal antecedents of the petitioner, this court does not deem it fit to extend the concession of bail as there could be a likelihood of the petitioner influencing the witnesses and tampering with remaining evidence in the instant case.

Dismissed. However, it is made clear that any observation made hereinabove shall not be construed as an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

29.07.2022

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Note: Whether speaking/reasoned
Whether Reportable:

Yes / No
Yes / No