

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

**(Heard through VC)**

CRM-M-36670 of 2021 (O&M)  
Date of Decision: January 14, 2022

Pardeep

...Petitioner

Versus

State of Haryana

...Respondent

**CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR**

Present:- Mr. Hemant Bassi, Advocate  
for the petitioner.

Mr. Gurmeet Singh, AAG Haryana.

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**JAISHREE THAKUR, J.**

1. The petitioner prays for grant of regular bail in FIR. No 100 dated 22.02.2017, registered under Sections 8 and 9 of Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 ('the Act of 1988' for short) at Police Station Sadar Bahadurgarh, District Jhajjar.

2. The petitioner was sentenced for life imprisonment in FIR No.324 dated 02.08.2011, under Sections 302/307/34 IPC and Section 25 of Arms Act on 31.7.2015 by the Additional Sessions Judge, Jhajjar. He was allowed six weeks parole by order dated 28.12.2016, but failed to surrender on 09.02.2017 in terms of the said order. On failure to surrender, the present FIR under Sections 8 and 9 of the Act of 1988 was registered on 22.2.2017.

The petitioner was nominated as an accused in FIR No.132 dated 11.3.2017

under Sectiona 379 and 427 IPC and convicted to simple imprisonment for the period already undergone vide judgement dated 17.12.2019. Apart from said FIR No.132 dated 11.03.2017, the petitioner was arrested in FIR No. 278 dated 31.10.2018, registered at Police Station Crime Branch, New Delhi, for an offence under Section 25 of the Arms Act. While in custody in New Delhi, he was arrested and brought into judicial custody by production warrant in present FIR No.100 dated 22.2.2017, registered under Sections 8 and 9 of the Act of 1988 on 11.12.2018.

3. Learned counsel appearing on behalf of the petitioner would contend that the petitioner has been in custody since 11.12.2018, and therefore, would be entitled to grant of regular bail in FIR No.100 dated 22.2.2017, registered under Sections 8 and 9 of the Act of 1988. It is submitted that the maximum punishment under the said provisions is punishment with imprisonment which may extend to 3 years, but shall not be less than 2 years and the petitioner has already completed a period of 3 years in custody, as he was arrested on 11.12.2018. Whereas, Mr Gurmeet Singh, learned counsel for the State argues that the petitioner has been awarded life imprisonment, and therefore, the custody of the petitioner under the present FIR has yet not commenced.

4. Mr. Hemant Bassi learned counsel for the petitioner would also rely on a judgement rendered by the Supreme Court in ***Muthuramalingam vs. State Represented by Inspector of Police 2016(3) R.C.R. (Criminal) 827*** to argue that if a person has been sentenced to life imprisonment and also term imprisonment, Section 31 Cr.P.C. permits consecutive running of sentences. The prisoner shall undergo the term sentence before the

commencement of his life sentence.

5. At the very outset, the judgement as relied upon by the counsel for the petitioner is not relevant or applicable to the facts of the present case. In ***Muthuramalingam vs. State (supra)*** the Supreme Court was dealing with an entirely different issue. The question posed before the Constitutional Bench was “*whether consecutive life sentences can be awarded to a convict on being found guilty of a series of murders for which he has been tried in a single trial.*” The question arose in a case where the appellants were tried for several offences including an offence punishable under Section 302 IPC for several murders committed by them in a single incident. They were found guilty and sentenced to suffer life imprisonment for each one of the murders committed by them. It is, in this background, that the Supreme Court came to hold that if a person has been sentenced to life imprisonment and also term imprisonment, Section 31 Cr.P.C. permits consecutive running of sentences. The prisoner shall undergo the term sentence before the commencement of his life sentence. The judgement as relied upon would have been of relevance, had the petitioner been sentenced under the Act of 1988 for a term of 2-3 years.

6. At the present moment, only regular bail is being sought in the FIR No.100 dated 22.02.2017, registered under Sections 8 and 9 of the Act of 1988, on account of failure to surrender within specified time, which bail is being opposed that his custody under the said FIR has not commenced. While granting bail, the Court has to keep in mind not only the nature of the accusations, but the severity of the punishment, if the accusation entails a conviction and the nature of evidence in support of the accusations. Apart

from the above, it has to be seen whether the accused is in a position to influence and hamper investigation or any of the material witness. The trial under the FIR has not concluded and there is little likelihood of the petitioner influencing the witnesses as he is already in custody for life in FIR No.324 dated 02.08.2011. If and when convicted under the present FIR, the petitioner will serve out his sentence.

7. Therefore, in the instant case, the petitioner ***if not wanted in any other case*** will be released on regular bail subject to his furnishing adequate bail bond and heavy surety bond to the satisfaction of the trial court/Duty Magistrate concerned.

8. However, while allowing this bail petition, it made clear that no opinion is being expressed whether the custody is being counted towards FIR No.100 dated 22.2.201, registered under Sections 8 and 9 of the Act of 1988 or under FIR No.324 dated 02.08.2011, under Sections 302/307/34 IPC and Section 25 of Arms Act where he stands convicted with imprisonment for life.

9. The petition stands allowed accordingly.

**January 14 , 2022**  
*vijay saini*

**(JAISHREE THAKUR)**  
**JUDGE**

Whether speaking/reasoned  
Whether reportable

Yes/No  
Yes/No