

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

CRA-S-1336-2022

Date of Decision: November 24, 2022

SAURABH @ TONGER

....appellant(s)

VERSUS

STATE OF HARYANA AND ANOTHER

....Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. P.S. Ahluwalia, Advocate for the appellant.

Ms. Aditi Girdhar, AAG, Haryana.

AMAN CHAUDHARY, J.

The present petition has been filed against the order dated 16.07.2022, passed by the learned Addl. Sessions Judge, Karnal, in FIR No.234 dated 11.04.2019 under Sections 307, 341, 392 and 397 IPC and Sections 25/54 of the Arms Act, 1959 as also the order dated 23.09.2020, passed by the learned Addl. Sessions Judge-I, Karnal, whereby the bail application filed on behalf of the appellant/juvenile has been dismissed.

Learned counsel for the appellant would contend that the appellant, who is aged about 19 years, has been in custody for the last two years. The allegations, as reflected in the FIR, though were that an unknown person had fired, however, neither the complainant nor the eye-witnesses identified the appellant to be the one, who had allegedly fired. All material witnesses have since been examined. None of them have supported the case of the prosecution. There are still 14 more witnesses to be examined. He submits that though the appellant is involved in two more cases, however, he is enlarged on bail vide order dated 21.12.2019 passed

by Addl. Session Judge, Faridabad, Annexure P-7, and order dated 16.12.2021, passed by Hon'ble High Court of Rajasthan Bench at Jaipur, Annexure P-8. He further submits that the appellant was 16 years, 3 months and 12 days at the time of the alleged incident.

Learned State counsel assisted by ASI Davender opposes the bail on the ground that the recovery of pistol and four live cartridges has been effected from the appellant. However, she is unable to controvert the factum of the appellant being in custody for the last two years, he is on bail in the other two cases, as also the fact that 14 more witnesses remain to be examined.

Heard.

Taking into consideration the facts and circumstances of the case, in particular that the appellant, who was juvenile at the time of alleged incident, is 19 years old and in custody for the last 2 years; still as many as 14 witnesses are yet to be examined, thus, the trial is likely to take considerable time; his further detention behind bars would not serve any useful purpose, thus, the present petition for grant of regular bail deserves to be allowed.

Resultantly, the present appeal is allowed and the order dated 16.7.2022 is hereby set aside. The appellant is ordered to be released on bail subject to furnishing adequate bail/surety bonds to the satisfaction of the Principal Magistrate, Juvenile Justice Board/Duty Magistrate/CJM concerned. The appellant shall abide by the following conditions:-

1. The appellant will not tamper with the evidence during the trial.
2. The appellant will not pressurize/ intimidate the prosecution witnesses.

3. The appellant will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.
4. The appellant shall not commit an offence similar to the offence of which, he is an accused, or for commission of which he is suspected of.
5. The appellant shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/ her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.
6. The appellant shall not in any manner misuse his liberty.
7. The appellant shall furnish his address and mobile number to the Trial Court forthwith and shall not change the same till the conclusion of the trial and in case for any reason, the appellant seeks to change any of the aforesaid, the same shall be done only with prior intimation to the learned Trial Court, stating the reason for the same.
8. The appellant shall deposit his passport, if any, with the Trial Court forthwith and in case, he does not have the passport, he shall furnish a specific affidavit in this regard.

It is made clear that in case of any infraction of any of the aforesaid conditions, the State shall be at liberty to seek cancellation of bail as granted to the appellant by this order.

In view of the above, it is clarified that the observations made herein above are limited for the purpose of present proceedings and would not be construed as any opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

24.11.2022
Sangeeta

(AMAN CHAUDHARY)
JUDGE

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