

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

213

CRM-M-36509-2022 (O&M)
Date of decision: 06.12.2022

SUBHASH

....Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Vinod Ghai, Sr. Advocate with
Mr. Edward Augustine George, Advocate
for the petitioner.

Mr. Tanuj Sharma, AAG Haryana.

Dr. Anmol Rattan Sidhu, Sr. Advocate with
Mr. Pratham Sethi, Advocate
for the complainant.

AMAN CHAUDHARY. J.

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in respect of FIR No.311 dated 05.11.2021, under Sections 148, 149, 302, 307, 452 of the IPC and Sections 25(1B)(a) of the Arms Act, (report under Section 173 CrPC has been presented under Sections 148, 149, 302, 307, 429, 459, 452, 216, 120-B, 212 IPC and Sections 25(1B)(a), 27(1) of the Arms Act and in the impugned order Sections 25(8), 29 of the Arms Act have also been mentioned) registered at Police Station Industrial Sector 7, Manesar, Gurgaon.

Learned Senior counsel would contend that the petitioner, who is 56 years old, was not named in the FIR and his name surfaced only on account of disclosure statement made by co-accused, that has not led to any recovery or discovery of any new fact. The petitioner has been roped in on basis of Section

120-B IPC, which he submits would be deliberated during the course of trial. The petitioner is in custody since 12.11.2021. The case was listed for framing of charge on last two dates before the learned trial Court, but the same were not framed, thus it is now again listed for 31.01.2023, for the said purpose. In all there are 82 witnesses in the case. The petitioner is not involved in any other criminal case.

Opposing the bail learned State counsel submits that the petitioner had clear motive to commit the offence and one of his sons is yet to be arrested. He is, however, unable to controvert the fact that the petitioner is in custody since 12.11.2021; charges are yet to be framed; in all there are 82 witnesses and that the petitioner is not involved in any other criminal case.

Learned Senior counsel appearing on behalf of the complainant opposes the bail on the ground that the petitioner had a strong motive to commit the offence and that it is on his asking that his sons had participated in the crime.

Heard.

In view of the facts and circumstances of the case, in particular that the petitioner is in custody since 12.11.2021; charges are yet to be framed; in all there are a total of 82 witnesses; the petitioner is not involved in any other criminal case; the trial is likely to take a 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.

As a result, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate concerned and subject to him not being required in any other case. The petitioner shall abide by the following conditions:-

1. The petitioner will not tamper with the evidence during the trial.
2. The petitioner will not pressurize/ intimidate the prosecution witnesses.
3. The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.
4. The petitioner 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 petitioner 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 petitioner shall not in any manner misuse his liberty.
7. The petitioner 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 petitioner 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 petitioner 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 petitioner by this order.

In view of the above, this Court makes it 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.

(AMAN CHAUDHARY)
JUDGE

December 06, 2022

S.Sharma(syr)

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