

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

201

CRM-M-40986-2022

Date of Decision :22.11.2022

Kulwinder Singh @ Kandi**...Petitioner**

Versus

State of Haryana**....Respondent****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Navneet Jindal, Advocate for the petitioner.

Mr. Rajesh Gaur, Addl. A.G. Haryana.

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Harsimran Singh Sethi, J. (Oral)

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.321 dated 09.10.2019 registered under Sections 332, 333, 353, 186, 147, 148, 149, 379B, 224, 225, 342, 427, 307 & 304 of the IPC and Sections 25, 54 & 59 of the Arms Act at Police Station City Mandi Dabwali, District Sirsa.

Learned counsel for the petitioner argues that in the present case, police party which went to arrest the petitioner in the case relating to NDPS Act faced resistance from a crowd armed with bricks and guns and in the firing which took place in self defence by the police, one of the person namely, Jagga Singh died. Learned counsel for the petitioner further argues that the petitioner is behind the bars for the last more than two and a half years and the challan has already been presented and keeping in view the fact that charges are yet to be framed against the petitioner and as 59

witnesses have been cited in the challan, in case the charges are framed against the petitioner by the competent Court of law, the trial is likely to take some time before it concludes and as all the material witnesses are police officials, there is no apprehension of influence by the petitioner hence, the petitioner be granted concession of regular bail.

Learned State counsel submits that there are four other FIRs pending against the petitioner, which shows that the petitioner is a habitual offender and, therefore, prayer of the petitioner for the grant of regular bail may kindly be declined.

Learned counsel for the petitioner submits that though, four other cases are pending against the petitioner but in one case even as per the status report, the petitioner has already been acquitted and in other three cases, which are still pending, guilt of the petitioner is yet to be proved and in those cases the petitioner is yet to secure bail.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

Keeping in view the facts and circumstances of the present case where the petitioner is behind the bars for the last two and half years and charges are yet to be framed against the petitioner and keeping in view the fact that the challan has been submitted, in which 59 witnesses have been cited to be examined and in case charges are framed against the petitioner by the competent Court of law, the trial is likely to take some time before it concludes hence, no useful purpose will be served by keeping the petitioner behind the bars during the entire period of trial, especially, when all the material witnesses to be examined are police officials.

Further argument of the learned State counsel is that the allegations against the petitioner are serious in nature as the police party was attacked. The said allegations are yet to be proved during the course of trial, hence merely on the allegations being alleged by the police party against the petitioner, petitioner cannot be made to suffer indefinite incarceration.

Keeping in view the above facts and circumstances, the petitioner has made out a case for the grant of concession of regular bail, it is directed that the petitioner be released on regular bail, subject to the satisfaction of trial Court/Duty Magistrate concerned but it is made clear that the release of the petitioner from the jail, keeping in view this order, will be subject to the pendency and status of the other cases, which are pending against the petitioner.

It is made clear that anything observed herein shall not be construed to be an expression of any opinion on the merits of the case.

November 22, 2022
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No