213

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-46028-2021
Date of Decision: 05.07.2022

Balram @ Bhola

....Petitioner(s)

Versus

State of Haryana

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Brijender Kaushik, Advocate, for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryana

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JASGURPREET SINGH PURI, J. (Oral)

The present is a third petition filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No. 69 dated 02.02.2020, under Sections 395, 397 IPC read with Section 25/54/59 of Arms Act, registered at Police Station Camp Palwal, District Palwal, Haryana.

It has been submitted by the learned counsel for the petitioner that the petitioner is in custody from 14.02.2020 which is about 2 years and 4 months. He further submitted that charges in the present case were framed on 02.11.2021 and thereafter, the complainant namely Khem Chand did not appear before the learned trial Court for deposing. He further submitted that after the framing of the charges the matter came up for hearing before the learned trial Court on 21.12.2021 and it was observed by the learned trial

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2022.07.05 17:23
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Court that the summons issued to PW Khem Chand (complainant) have been received back served through his mobile phone which is not a proper service and he was again summoned for 28.03.2022 and again a similar order was passed on the aforesaid date. Thereafter, again on 30.05.2022 the matter was adjourned for summoning the aforesaid complainant Khem Chand and only 4 official witnesses have been examined till date. He further submitted that 2 other co-accused have been granted bail in the present case. He further submitted that the petitioner was falsely implicated in the present case and considering the custody of the petitioner in the present case which is about 2 years and 4 months, he may be considered for the grant of regular bail. He further submitted that he had earlier filed two petitions before this Court but the same were dismissed as withdrawn at that stage because no PW was examined till that date.

Mr. Naveen Singh Panwar, learned Deputy Advocate General, Haryana has submitted that it is correct that the petitioner is in custody for 2 years and 4 months and only 4 official witnesses have been examined and the complainant has not turned for deposing before the Court. He has however submitted that there has been a recovery of Rs. 1,000/- from the petitioner and one country made pistol alongwith two live cartridges from the house of the petitioner.

I have heard the learned counsel for the parties.

As per the learned counsel for the parties the petitioner is in custody for 2 years and 4 months. The complainant namely Khem Chand was summoned for about 4 times but he did not step into the witness box till date. As per the learned counsel for the parties the petitioner is involved in one more case but he is already on bail in that case. Furthermore, it is not

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the case of the State that in case the petitioner is released on bail, then he may abscond or may influence any witness.

Therefore, considering the aforesaid facts and circumstances especially the fact that the petitioner has faced incarceration for 2 years and 4 months, this Court is of the view that the petitioner is entitled for the grant of regular bail.

Consequently, the present petition is allowed. The petitioner shall be released on regular bail subject to furnishing bail bonds/surety to the satisfaction of the learned trial Court/Duty Magistrate concerned.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

05.07.2022 **(JASGURPREET SINGH PURI)**
rakesh **JUDGE**

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

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