

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

CRM-M-41864-2022

Date of Decision: 22nd December, 2022

Lovepreet Singh

... Petitioner

Versus

State of Haryana

... Respondent

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Rakesh Gupta, Advocate for the petitioner.

Mr. Gurmeet Singh, AAG, Haryana.

AVNEESH JHINGAN , J.(Oral)

1. The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in FIR No.148 dated 16.04.2022, under Sections 392, 397, 506, 120-B of IPC and Section 25 of the Arms Act, 1959, registered at Police Station Cheeka, District Kaithal.
2. Earlier petition was dismissed as withdrawn with liberty to file afresh with better particulars.
3. Learned counsel for the petitioner claims parity with co-accused Jarnial Singh alias Jelly who was granted regular bail by this court on 16th September, 2022. He submits that petitioner is in custody since 5th May, 2022.
4. The following order was passed by this Court on 16th September, 2022 in CRM-M-39183-2022 :-

“CRM-33573-2022

For the reasons mentioned in the application, the same is allowed, subject to all just exception. Annexures P-12 and P-13 are taken on record.

Main Case

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.148 dated 16.04.2022, under Sections 392, 397, 506, 120-B of IPC and Section 25 of the Arms Act, 1959, registered at Police Station Cheeka, District Kaithal.

Learned senior counsel for the petitioner contends that the petitioner is not named in the FIR and his name surfaced on the basis of the disclosure statement of the co-accused, who is stated to be in custody. It is further submitted that nothing has been recovered from the petitioner as also the fact that the complainant had previously also lodged an FIR No.0159, dated 11.06.2021, under Section 379-A (Annexure P- 10), alleging a similar kind of offence, wherein allegedly Rs.9,80,000/- were robbed of the complainant was found to be false. He further refers to Annexure P-11 to submit that in the said FIR, complainant was himself involved and charges against him were framed under Sections 177, 406, 420 read with Section 120-B IPC, vide order dated 10.05.2022 by the trial Court.

Learned Senior counsel further submits that though the petitioner was involved in another FIR registered under Sections 365 and 382 of IPC wherein he has been granted regular bail vide order dated 24.08.2022. He further submits that the petitioner is in custody since 08.05.2022. Charges are yet to be framed and next date fixed before the trial Court is 27.09.022. There are 23 prosecution witnesses and the trial is yet to commence which will take a long time. He further submits that the petitioner is in custody since 17.08.2021.

Learned State counsel opposes the prayer of the petitioner on the ground that the petitioner is the main conspirator and was doing recce of that area and had pointed out to the accused the shop of the complainant and that he is involved in one more case. He however, is unable to controvert the factum of petitioner having been nominated in this case on the basis of the disclosure statement of the co-

accused; no recovery effected from him; his custody since 08.05.2022, charges are yet to be framed, there are 23 prosecution witnesses and the trial is yet to commence.

I have heard learned counsel for the parties.

Keeping in view the facts and circumstances of the case, in particular the fact that the disclosure statement of co-accused is the basis of involvement of the petitioner in this case; no recovery has been effected from him; though another case registered against the petitioner, in which he is on bail; charges are yet to be framed; there are 23 prosecution witnesses; the petitioner is in custody more than four months; thus his further detention behind the bars would not serve any useful purpose, the present petition for grant of regular bail deserves to be allowed.

Resultantly, 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 however 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. Any infraction shall entail in withdrawal of the benefit granted by this Court.”

In view of the above, this Court makes it clear 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”.

5. Learned counsel for the State though opposes the prayer for grant of bail but he is not in a position to distinguish the case of the petitioner qua the co-accused so far as grant of bail is concerned.

6. Without commenting on the merits of the case, on the basis of parity of petitioner vis-a-vis co-accused so far as grant of bail is concerned, though the investigation is complete conclusion of trial is likely to take time, the petitioner is granted bail subject to his furnishing bail bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned and subject to conditions mentioned in order dated 16.9.2022 of the co-accused.

7. The petition is allowed.

8. However, it is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

(AVNEESH JHINGAN)
JUDGE

22nd December, 2022

anuradha

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No