IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(105+204) **CRM-43018-2021 in/and**
CRM-M-45423-2021
Date of Decision : January 06, 2022

Joginder Miglani **.. Petitioner**

Versus

State of Punjab **.. Respondent**

(Through Video Conferencing)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Sangram Singh Saron, Advocate, for the petitioner.

Mr. Kirat Singh Sidhu, Deputy Advocate General, Punjab.

Mr. Rajwinder Singh Bains, Sr. Advocate, with
Mr. Naresh Devgan Sharma, Advocate, for the complainant.

HARSIMRAN SINGH SETHI J. (ORAL)

CRM-43018-2021

Present application has been filed for placing on record Annexure P-16.

Keeping in view the averments made in the application, the same is allowed and Annexure P-16 is permitted to be taken on record.

CRM-M-45423-2021

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.109 dated

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20.09.2019 registered under Section 174-A of the IPC, 1860 at Police Station Daba, District Police Commissionerate Ludhiana.

Learned counsel for the petitioner argues that the present FIR was registered under Section 174-A of the IPC on the allegation that the petitioner did not join the proceedings before the competent Court of law and was evading the same keeping in view the allegations alleged against him in FIR No.236 dated 01.11.2014, after being declared a proclaimed offender. Learned counsel for the petitioner submits that the Investigating Agency found the petitioner innocent initially of the allegations alleged in FIR No.236 dated 01.11.2014 and filed a cancellation report. Thereafter, the petitioner was of the view that he has been declared innocent by the investigating agency and the subsequent proceedings regarding further investigation ordered by the trial Court and filing of the challan against him, was not in his knowledge and therefore, the petitioner did not attend the proceedings and the same was not intentional. Learned counsel for the petitioner submits that as the petitioner is behind bars since August, 2021 and the trial is likely to take some time before it concludes, petitioner may kindly be granted concession of regular bail.

Learned counsel for the respondent-State submits that the plea, which is being taken by the petitioner that he did not knew about the subsequent proceedings of filing challan against the petitioner as well as he being declared a proclaimed offender, is false as it is only after the challan was submitted that the petitioner started evading the proceedings, which fact show that the petitioner did not cooperate with the law so as to join the proceedings initiated against him with regard to the allegations alleged against him in FIR No.236 dated 01.11.2014 and therefore, though now the

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petitioner has already been arrested and the challan has also been submitted, but keeping in view the conduct of the petitioner, his prayer for the grant of regular bail may kindly be declined.

Learned senior counsel appearing along with the complainant submits that the averments of the petitioner that he did not knew of the subsequent proceedings after further investigation was ordered by the competent Court of law in respect of FIR No.236 dated 01.11.2014 is false and rather, after the petitioner was prima facie found guilty by the investigating agency of the allegations and the challan was submitted, the petitioner evaded the law and was declared a proclaimed offender and was arrested after approximately two years, which delayed the proceedings, hence, the prayer of the petitioner for the grant of regular bail may kindly be declined as the petitioner might abscond once again.

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

No doubt, the conduct of the petitioner in not attending the proceedings is deplorable. However, whether, the petitioner had knowledge about the order passed by the competent court of law for further investigation in respect of the allegations alleged in FIR No.83 dated 28.03.2017 after submission of a cancellation report and subsequently being challaned in respect of the same, is a matter of evidence, which will come before the trial Court during the trial.

As the petitioner is already behind the bars for last about more than four months and the trial is likely to take some time before it concludes keeping in view the restricted working of the Courts due to the pandemic of Covid-19, no useful purpose will be achieved in keeping the petitioner

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behind the bars throughout the said trial as the petitioner has undertaken before this Court that he will comply with all the terms and conditions imposed while granting concession of bail.

In view of the above and without commenting upon the merits of the case, it is directed that the petitioner be released on regular bail, subject to the satisfaction of the trial Court/Duty Magistrate concerned.

Learned counsel for the petitioner undertakes that petitioner will not influence trial in any manner including influencing the witnesses and in case of default of the above undertaking, State will be at liberty to approach this Court for passing appropriate orders.

However, 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.

January 06, 2022 **(HARSIMRAN SINGH SETHI)**
harsha **JUDGE**

Whether speaking/reasoned? : Yes
Whether reportable? : Yes

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