

In virtual Court

CRM-M-48158-2021

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-48158-2021 (O&M)

Date of decision: 15.02.2022

Jitender @ Jitu @ Bhanja

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. J.P. Jangu, Advocate
for the petitioner.

Mr. Himmat Singh, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of regular bail in FIR No.611 dated 20.07.2018 under Sections 392, 397 IPC and Section 25 of Arms Act, registered at Police Station Civil Lines, District Karnal.

Learned counsel for the petitioner, at the very outset, submits that the petitioner was not named in the FIR and his name disclosed in the disclosure statement of co-accused Kamal @ Kala, who has already been released on regular bail vide order dated 29.10.2021 passed in CRM-M-16946-2021. The operative part of the order reads as under: -

“...Learned counsel for the petitioner relies upon order dated 05.10.2021 passed in CRM-M-22439-2021, vide which, co-

accused of the petitioner, namely Shekhar @ Maya, has already been granted concession of regular bail by this Court. The operative part of the order reads as under:

“Counsel for the petitioner has argued that as per the allegations in the FIR, the petitioner along with his co-accused has committed the offence of robbery by entering the office of the complainant and by putting the employee of the complainant at gun point has taken away cash of Rs.24.68 lacs along with some other articles. It is further submitted that the petitioner was arrested after the disclosure statement of the co-accused Kamal @ Kala. It is also submitted that the petitioner was already in custody in other case when he was taken on production warrant in this case and was arrested in pursuance of the disclosure statement of the petitioner, which was recorded later on, only an amount of Rs.5300/- was recovered from him.

Counsel for the petitioner has lastly submitted that the alleged pistol used in the offence, has already been recovered in another FIR by Delhi Police.

Counsel for the State has filed the Custody Certificate today in the Court and as per the Custody Certificate, the petitioner is in custody for the last 02 years and 01 month and he is involved in some other cases in different Police

Stations of Delhi wherein he has shown to be undertrial before the Juvenile Justice Board.

The Custody Certificate further show that the petitioner is on bail and in one or two cases, he has been discharged. Lastly, counsel for the State has submitted that till date, no PW has been examined so far in this case and therefore, he has opposed the prayer for bail on the ground that the statement of the complainant is yet to be recorded.”

For the sake of brevity, the facts are not reproduced here again.

Learned counsel for the petitioner submits that the petitioner is also in judicial custody for the last about 02 years and 10 months and till date, no prosecution witness has been examined and the petitioner is not involved in any other case of similar nature.

Learned State counsel could not dispute the factual position that the case is still at the stage of recording the evidence of prosecution witnesses, however, none has been examined so far...”

Learned counsel for the petitioner submits that custody of the petitioner is 02 years and 07 months and till date, no prosecution witness has been examined. It is further submitted that one more co-accused Shekhar @ Maya has also been granted the concession of regular bail vide order dated 05.10.2021 passed in CRM-M-22439-2021.

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Learned State counsel has, however, submitted that during investigation, it has come that the petitioner has actively participated and has shared the money. It is further submitted that the petitioner is involved in some other cases in Delhi and Gurugram, as noticed in the order dated 09.11.2021 passed by the Additional Sessions Judge, Karnal.

In reply, learned counsel for the petitioner has submitted that the petitioner is on bail in most of the cases.

After hearing learned counsel for the parties, without commenting anything on merits of the case and considering long custody of the petitioner and in view of the fact that no prosecution witness has been examined and the co-accused, on whose disclosure statement, the petitioner was nominated in the FIR, has already been released on regular bail, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate, concerned.

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

15.02.2022
vishnu

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No