

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

224

CRM-M-44443 of 2022

Date of Decision:13.12.2022

Naresh

....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Arjun Atri, Advocate,
for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryana

JASGURPREET SINGH PURI, J. (Oral)

The present petition has been filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No.83 dated 18.03.2009, under Sections 395, 412 IPC, registered at Police Station Sadar Palwal, District Faridabad (now District Palwal).

It has been submitted by the learned counsel for the petitioner that the petitioner is in custody from 10.08.2022 and it is a case where the name of the petitioner was not surfaced in the FIR which is of the year 2009 alleging that some persons had come to the truck and looted the truck. One of the co-accused was arrested and on whose disclosure statement the name of the petitioner was nominated but the petitioner was never informed with regard to the pendency of any proceedings against him. He submitted that in fact thereafter all the other co-

accused faced the trial and they were acquitted and while referring to the judgment Annexure P-5, he submitted that even the complainant at whose instance the complaint was filed did not support the prosecution version and was declared as a hostile and rather had stated that he had never given any complaint to the police in this regard. He submitted that since the proceedings were not in the knowledge of the petitioner, he was ultimately declared as a proclaimed offender but thereafter he was arrested in some other case in the year 2016 and thereafter he has been arrested in the present case on the basis of production warrants. He submitted that that once the other co-accused have been acquitted on the ground that the complainant himself has retracted while stating that he has not given any complaint. The mere fact that the petitioner who was earlier a proclaimed offender cannot become a ground for denial of bail to the petitioner in the present case.

On the other hand, Mr. Naveen Singh Panwar, learned DAG, Haryana has stated, that it is correct that the petitioner is in custody from 10.08.2022 and all the other co-accused have already been acquitted and the complainant and the other material witnesses had not supported the prosecution version. He has however opposed the grant of regular bail to the petitioner on the ground that in the present case itself earlier the petitioner was declared as a proclaimed offender.

I have heard the learned counsel for the parties.

The petitioner is stated to be in custody from 10.08.2022. The other co-accused have been acquitted on the ground that the prosecution has not been able to prove its case and the complainant and other material witnesses turned hostile and did not support the case of the prosecution and as per the learned counsel for the petitioner rather the complainant had stated that he had never given

any complaint to the police. Apart from the above, at the time of the argument, learned State counsel also stated that no recovery was effected from anybody in the present case as per the judgment whereby the co-accused were acquitted.

In view of the aforesaid facts and circumstances, this Court is of the view that mere fact that earlier the petitioner was declared as a proclaimed offender and now he has been arrested cannot become a bar for considering the grant of regular bail to the petitioner wherein he has faced incarceration in the present case more than four months. Furthermore, it is not the case of the State nor it has been argued by the learned State counsel that in case the petitioner is released on bail, then he may abscond from justice or he may influence any witness.

In view of the aforesaid facts and circumstances, the present petition is allowed. The petitioner shall be released on regular bail if not required in any other case 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 only meant for the purpose of decision of present petition.

(JASGURPREET SINGH PURI)
JUDGE

December 13, 2022
dinesh

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