

CRM-M-47884 of 2022

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

CRM-M-47884 of 2022
Date of decision: 12.12.2022

Mahesh Saini

.....Petitioner

versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Keshav Pratap Singh, Advocate, for the petitioner.
Mr. Vikrant Pamboo, DAG, Haryana.

NAMIT KUMAR, J. (ORAL)

This petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case FIR No.216 dated 21.09.2022 under Section 25 of the Arms Act, 1959 registered at Police Station Rampura, District Rewari, Haryana.

The case of the prosecution is that on 21.09.2021, HC Vijay Singh along with fellow officials was on patrolling duty on Mahendergarh T-point, Rewari. A secret information was received that Mahesh Saini (petitioner) who is habitual criminal is coming from his house in Chiranjiv Lal Colony to Railway Crossing, Narnaul. He might be carrying illegal weapon with him. Barricading was done there and after sometime a person was seen coming towards Narnaul Railway Crossing. Upon seeing the police party, he tried to run away. HC Vijay Singh along with officials

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apprehended him. He disclosed his name as Mahesh Saini. Upon his personal search a countrymade pistol was recovered from the right pocket of his lower. He failed to produce any license to possess the countrymade pistol and live cartridge. On the basis of written complaint, the present FIR was registered under Section 25/54/59 of the Arms Act.

On issuance of notice of motion, status report by way of affidavit of Subhash Chand, Deputy Superintendent of Police, City Rewari, has been filed on behalf of the respondent-State.

Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in the present case by the police and is in custody since 21.09.2022. He further submits that the petitioner was called by the police officials at Police Station Rampura on 19.09.2022 regarding another FIR No.207 dated 13.09.2022 under Sections 160, 294, 285, 120-B IPC and Section 4 of the Noise Pollution Rules, which was registered at Police Station Rampura and thereupon they raised demand of illegal gratification, which was refused by the petitioner resulting into his detention in the police station from 19.09.2022 to 21.09.2022 and thereafter he was implicated in the present case on 21.09.2022. He further submits that he filed regular bail application before the JMIC, Rewari, on 23.09.2022, which was rejected vide order dated 29.09.2022. He further submits that thereafter petitioner filed application under Section 439 Cr.P.C. before the Court of learned Additional Sessions Judge, Rewari, which was also rejected by the said Court vide order dated 03.10.2022 (Annexure P-2). Learned counsel for the petitioner has referred to the contentions raised by petitioner's counsel before the said Court in para 3 of order dated

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03.10.2022, wherein it was stated that he was kept in police station from 19.09.2022 to 22.09.2022 and illegally implicated in the present case on 21.09.2022. However, no finding was returned by the Court on the said issue. He further submits that challan stands presented on 10.11.2022 and next date of hearing before the trial Court is 14.12.2022 and he may be granted concession of regular bail.

On the other hand, learned State counsel submits that the petitioner is involved in 35 more cases and he is not entitled to the concession of regular bail in the present case.

To counter the abovesaid assertion of the learned State counsel, learned counsel for the petitioner submits that out of 35 cases, he has been acquitted in 20 cases and he is on bail in 14 cases. He further submits that his acquittal in 20 cases further supports his contention that the petitioner has been falsely implicated in various cases, including the present one. He further submits that since the petitioner has been falsely implicated in the present case, therefore, his wife sought information under the RTI for preservation of CCTV footage of Police Station Rampura w.e.f. 19.09.2022 to 23.09.2022. However, in the status report filed in the present case, it has been stated as under: -

“.....on dated 14-10-2022 wife of the petitioner/accused namely Neelam seek information under RTI wherein she demanded CCTV Footage of Police Station Rampura for the period of 19-09-2022 to 23-09-2022. It is pertinent to mention here that there is 15 days storage in the hard disk of CCTV installed in the premises of Police Station Rampura whereas, the aforementioned under RTI moved more than lapse of 25 days.”

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Learned counsel for the petitioner submits that the Hon'ble Supreme Court in a judgment dated 02.12.2020 passed in ***Special Leave Petition (Criminal) No.3543 of 2020 – Paramvir Singh Saini v. Baljit Singh and others*** has directed as under: -

“17.CCTV systems that have to be installed must be equipped with night vision and must necessarily consist of audio as well as video footage. In areas in which there is either no electricity and/or internet, it shall be the duty of the States/Union Territories to provide the same as expeditiously as possible using any mode of providing electricity, including solar/wind power. The internet systems that are provided must also be systems which provide clear image resolutions and audio. Most important of all is the storage of CCTV camera footage which can be done in digital video recorders and/or network video recorders. CCTV cameras must then be installed with such recording systems so that the data that is stored thereon shall be preserved for a period of 18 months. If the recording equipment, available in the market today, does not have the capacity to keep the recording for 18 months but for a lesser period of time, it shall be mandatory for all States, Union Territories and the Central Government to purchase one which allows storage for the maximum period possible, and, in any case, not below 1 year. It is also made clear that this will be reviewed by all the States so as to purchase equipment which is able to store the data for 18 months as soon as it is commercially available in the market. The affidavit of compliance to be filed by all States and Union Territories and Central Government shall clearly indicate that the best equipment available as of date has been purchased.”

Learned counsel further submits that in the present case the stand taken by the State that 15 days' storage in the hard disk of CCTV is

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available, is totally against the directions issued by the Hon'ble Supreme Court.

I have heard learned counsel for the parties and perused the record.

Keeping in view the custody period of the petitioner i.e. two months and 21 days; possibility of false involvement of petitioner in the present case, which is a question of trial; trial is likely to take a considerable time to conclude and investigation is complete and challan has been presented, therefore, there is no scope of influencing the witnesses, however, without commenting upon the merits of the case, the petitioner is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

The petition stands disposed off accordingly.

(NAMIT KUMAR)
JUDGE

12.12.2022
R.S.

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No