

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

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CRM-M-52557-2021

Date of Decision : May 19, 2022

HARJINDER

.....Petitioner

VERSUS

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present : Mr. M.K.Garg, 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 grant of regular bail to the petitioner in case FIR No.45 dated 8.3.2018 under Sections 120-B, 34, 370-A, 406 and 120 IPC, registered at Police Station Julana, District Jind.

The learned counsel for the petitioner has submitted that the petitioner is in custody for about 7 months and 16 days. He submitted that it is a case where the allegations against the petitioner were that he was the mediator between the marriage of a boy and a minor girl and thereafter matrimonial dispute arose between the parties and the girl stopped living with her husband and as a result of the same, the present FIR was lodged against the petitioner as well. He further submitted that the petitioner has clean antecedents and is not involved in any other case. He submitted that earlier the petitioner was granted regular bail by the learned trial Court on 31.3.2018 and thereafter the matter was committed

to the learned Sessions Court and the charges were framed on 25.10.2018. However, the petitioner remained absent from the Court for once only i.e. 29.11.2019 since he suffered from chickenpox and thereafter he himself surrendered on 27.1.2020. Thereafter he filed another bail application before the learned trial Court and he was granted bail on 3.2.2020. Thereafter since the cases were being adjourned due to Covid-19 pandemic and even exemption was granted to the other co-accused, the petitioner absented himself on 7.9.2021 on the bonafide belief that he was not required to be present and thereafter he again surrendered on 21.10.2021 i.e. after a period of 1½ months. Thereafter he again moved an application for bail before the learned trial Court which was dismissed. He submitted that although on two occasions the petitioner was absent but within a short period of time he surrendered back and he has also explained the reasons for absence on the two different occasions. He further submitted that out of six witnesses, three have already been examined and the aforesaid factors whereby he remained absent twice may not become a ground for denial of bail to the petitioner since the absence was because of bonafide reasons. He has, therefore, prayed for the grant of regular bail to the petitioner in view of the fact that he has clean antecedents and is not involved in any other case.

On the other hand, the learned State counsel has submitted that it is correct that the petitioner is in custody for about 7 months and 16 days and earlier he was absent twice. On the earlier occasion after the initial absence on 29.11.2021 he surrendered back on 27.1.2020 and

thereafter he was granted bail on 3.2.2020. He has opposed the grant of bail to the petitioner only on the ground that earlier the petitioner has jumped the bail twice and, therefore, considering the aforesaid conduct of the petitioner, he is not entitled for the grant of regular bail.

I have heard the learned counsels for the parties.

The petitioner had earlier absented himself from the learned trial Court twice on two different occasions despite being on bail. However, the learned counsel for the petitioner has been able to explain the reasons as to why he remained absent for a short period of time accompanying with the fact that the petitioner himself surrendered back. It was not the case of the State that in case the petitioner is released on bail then he may influence any witness. However, the learned State counsel has opposed the bail only on the ground that in case he is released on bail then he may abscond from justice. However, this Court is of the view that since the petitioner has been able to explain and justify his absence on two earlier occasions, the petitioner cannot be denied bail only on this ground. Apart from the same, out of six witnesses, three have already been examined. Furthermore, as per the learned counsel for the parties, the petitioner is not involved in any other case. Therefore, after considering the arguments raised by the learned counsel for the parties and the totality of the facts and circumstances of the present case, this Court deems it fit and proper to grant bail to the petitioner.

Consequently, the present petition is allowed. The petitioner is ordered to be released on bail on furnishing of bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/trial

Court/Duty Magistrate.

However, anything observed here-in-above shall have no effect on the merits of the case and is meant for deciding the present petition only.

May 19, 2022
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(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No