

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

CRM-M-10730-2023

Date of Decision: 30.05.2023

Akash Kumar @ Ganja

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Munish Mittal, Advocate and
Mr. Ankit Kamboj, Advocate
for the petitioner.

Mr. Ram Kumar Singla, DAG, Haryana.

HARSH BUNGER J. (ORAL)

1. Petitioner (Akash Kumar @ Ganja) has filed the present petition under Section 439 of the Code of Criminal Procedure seeking grant of regular bail in case FIR No.541 dated 28.05.2020, under Sections 380, 436 and 457 of the Indian Penal Code, registered at Police Station Jagadhri City, District Yamuna Nagar.

2. Status report by way of affidavit dated 18.05.2023 of Mr. Parmod Kumar, H.P.S., Deputy Superintendent of Police, Yamuna Nagar, has been filed on behalf of State of Haryana, which is already on record.

3. Custody certificate dated 27.05.2023 of the petitioner is filed by learned State counsel in Court today, which is taken on record, subject to all just exceptions.

4. Brief facts of the case are that on 28.05.2020 at about 6:00 A.M., the police received a telephonic information regarding fire in a godown and house in Sharad Metal Wali Street, opposite Mansa Singh

Gurudwara, Jagadhri, whereupon the police reached at the spot and extinguished the fire. Thereafter, statement of Shiv Gupta s/o Pardeep Kumar Gupta was recorded in the case and accordingly the FIR in question was got registered. After registration of the FIR, untraceable report was prepared on 30.10.2020 and during further investigation, the petitioner was arrested in this case on 05.07.2022.

5. Learned counsel for the petitioner submits that earlier the petitioner was granted the concession of regular bail by the Court of Sessions Judge, Yamuna Nagar vide order dated 08.09.2022 (Annexure P-2). It is stated that after the grant of bail, the petitioner was regularly appearing before the trial Court except on one date, i.e. 16.01.2023, when he could not reach the Court as his maternal grandfather died on 14.01.2023 and when he went to attend his cremation then he caught fever and he was ill on 16.01.2023, as well. Learned counsel submits that application seeking exemption from personal appearance was also moved on 16.01.2023 before the trial Court on behalf of the petitioner, however, the same was dismissed. Subsequently, bail of the petitioner was cancelled and he was re-arrested in the instant case. Thereafter, the petitioner again applied for regular bail, which was dismissed by the Court of Sessions Judge, Yamuna Nagar vide order dated 20.02.2023 (Annexure P-3). Accordingly, the present petition has been filed before this Court.

6. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case as he was initially not named in FIR No.541 dated 28.05.2020 and earlier he was granted regular bail on 08.09.2022. However, on account of his illness, he could not appear before

the trial Court on 16.01.2023, accordingly, his bail was cancelled on the said date, i.e. 16.01.2023. Thereafter, the petitioner surrendered before the authorities on 06.02.2023 and since then he is in custody. It is submitted that there was no intention on the part of petitioner to delay the proceedings. It is stated that the investigation in this case is complete, challan stands presented and even charges have been framed. Learned counsel contends that the total custody of the petitioner in the present case is five months and twenty six days (as on 27.05.2023). It is stated that no other case is pending against the petitioner. Learned counsel submits that the petitioner undertakes to appear on each and every date of hearing before the trial Court and he is also ready and willing to abide by all the conditions as may be imposed by this Court or by the trial Court. Hence, prayer for regular bail is made.

7. Learned State counsel opposes prayer of the petitioner for regular bail by stating that the petitioner had jumped the bail and had not followed the conditions of bail, thus petitioner is not entitled to any relief. However, learned State counsel fairly concedes the facts that the petitioner has undergone actual custody for a period of five months and twenty six days in the present case (as on 27.05.2023) and no other case is pending against him.

8. I have heard the arguments of learned counsel for the parties and also perused the paper book as well as status report and custody certificate of the petitioner.

9. In the present case, the petitioner was earlier arrested and then was granted regular bail, however, his bail was cancelled on account of his non-appearance before the trial Court on 16.01.2023, due to his illness.

Petitioner surrendered in this case on 06.02.2023. The total custody of the petitioner is five months and twenty six days (as on 27.05.2023). Investigation in this case is complete, challan stands presented and even charges have been framed. Hence, trial is likely to take some time to conclude and no useful purpose would be served by keeping the petitioner behind bars for an indefinite period.

10. Keeping in view the aforementioned circumstances, the instant petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing fresh bail/surety bonds to the satisfaction of the Chief Judicial Magistrate/Illaqa Magistrate/Duty Magistrate concerned. However, the concerned Station House Officer shall be informed about the release of petitioner and the petitioner shall inform the concerned Station House Officer about his address at which he intends to reside during the pendency of case/trial and any change in the address shall be communicated to the concerned Station House Officer, forthwith. The petitioner would also furnish his telephone number to the concerned Station House Officer. He would also furnish his undertaking to the effect that he will not indulge in any illegal activity. The petitioner shall also appear before the concerned Police Station/Station House Officer on first Monday of every month till the conclusion of trial.

11. In addition, the petitioner (or anyone on his behalf) shall prepare a Fixed Deposit Receipt (F.D.R.) in the sum of Rs.50,000/- and submit the same with the trial Court. The same would be liable to be forfeited as per law, in case the petitioner remains absent from trial without any sufficient cause.

12. Nothing expressed hereinabove shall be construed to be an

observation on merits of the case and the facts and circumstances recorded above are only for consideration of the prayer for bail at this stage.

13. The petition is accordingly disposed of.
14. All pending application(s), if any, shall also stand closed.

30.05.2023

Apurva

(HARSH BUNGER)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No