

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

CRM-M-12731-2023

Decided on:-20.03.2023

Krishan @ Kala

....Petitioner..

vs.

State of Haryana

....Respondent.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Amaninder Preet, Advocate for the petitioner.

Mr. Sumit Jain, Addl. A.G., Haryana.

HARKESH MANUJA J.

By way of present petition filed under Section 439 Cr.P.C., the petitioner prays for grant of regular bail during pendency of trial in case FIR No.170 dated 11.05.2017, under Sections 307, 120-B, 34 IPC and Section 25 of Arms Act (charges framed only under Sections 307, 120-B, 34 IPC), registered at Police Station Kundli, District Sonapat.

Learned counsel for the petitioner submits that in the aforementioned case, earlier concession of regular bail was granted to the petitioner vide order dated 16.10.2017 passed by the court learned Sessions Judge, Sonipat, however, thereafter, he failed to appear before the court during trial, resulting into his declaration as proclaimed offender, vide order dated 02.12.2019. Learned counsel further submits that later on, the petitioner was arrested on 30.11.2022 and since then, he is in custody i.e. for the last more than 3 months now. He also points out to the decision dated 19.09.2022 (Annexure P-5) passed by the court of learned Additional

Sessions Judge, Sonapat, whereby his co-accused, namely, Pardeep and Shiv Kumar @ Shibu, were acquitted of the charges levelled against them in the same FIR. Learned counsel further submits that the evidence against the petitioner remains the same and once it already stands discarded by the court below, no useful purpose would be served by keeping the petitioner behind the bars.

On the other hand, learned State counsel vehemently opposes the prayer made in the present petition on the ground that the petitioner has absconded himself from the process of law for a period of more than 5 years and was finally got arrested by the police as he never intended to submit himself to the jurisdiction of the court, however, learned State counsel could not rebut the factum of judgment dated 19.09.2022, resulting into acquittal of two accused, namely, Pardeep and Shiv Kumar @ Shibu.

I have heard learned counsel for the parties and gone through the paper book. I find merits in the submissions made on behalf of the petitioner.

Once, co-accused, namely, Pardeep and Shiv Kumar @ Shibu have already been acquitted by the trial court vide order dated 19.09.2022 passed by the court of learned Additional Sessions Judge, Sonapat, the evidence against the petitioner remains the same, which has already been discarded by the court concerned and thus, the petitioner, who is already behind the bars for the last more than 3 months now, no useful purpose is going to be served by extending his incarceration any further. While considering the prayer made at the instance of the petitioner, one important factor is that there is no other FIR against the petitioner, despite the fact that

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he absconded himself from the process of law for a period of more than 5 years.

In view of the above and without expressing any opinion on the merits of the case, the present petition is allowed. Petitioner is ordered to be released on bail, subject to his furnishing bail bonds and surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

20.03.2023
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(HARKESH MANUJA)
JUDGE

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