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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-16442-2023
Date of decision: 2nd August, 2023

Farman
...Petitioner(s)
Versus
State of Haryana
...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. A.K. Rana, Advocate for the petitioner(s).
Mr. Rajiv Sidhu, Deputy Advocate General, Haryana.

AVNEESH JHINGAN, J (Oral):

1. The present petition has been filed under Section 439 of Cr.P.C. seeking regular bail in FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
236	13 th June, 2020	City Kaithal, District Kaithal	307, 380, 457, 511 read with Section 34 IPC and Section 25 of Arms Act, 1959 (offences under Sections 186, 332 and 353 of IPC added later on)

2. Learned counsel for the petitioner claims parity with co-accused Rukamdin @ Rukma who was granted regular bail by this court on 22nd February, 2023. He further submits that another co-accused has also been granted bail on the basis of decision in case of Rukamdin @ Rukma on 4th July, 2023.

3. The following order was passed by this Court on 22nd February, 2023 in CRM-M-33266-2022:-

“Prayer in the present petition under Section 439 of Code of Criminal Procedure is for grant of regular bail to the petitioner in case FIR No.236 dated 13.6.2020 registered for the offences

punishable under Sections 307, 380, 457, 511, 34, 186, 332, 353 IPC and Section 25 of Arms Act at Police Station City Kaithal, District Kaithal.

FIR in this case was registered against unidentified persons who made an attempt to uproot and take away ATM from the area of Kaithal at about 1:00 a.m. On 13.6.2020.

Counsel for the petitioner submits that FIR in this case was registered against unknown persons and the name of the petitioner was disclosed by co-accused Gulsher and thereafter, the petitioner was arrested on 24.12.2021 but no weapon or incriminating article was recovered from the possession of the petitioner. He further submits that actually, the petitioner was taken into custody in the present case after he was brought on production warrants as at that time, he was lodged in the jail. He further submits that the trial is not progressing ahead. So, prayer is made that the petitioner be released on regular bail.

The present petition is resisted by the State counsel who submits that the petitioner was named as accused on the basis of the disclosure made by co-accused Gulsher and was formerly arrested in this case on 24.12.2021 after getting his production warrants as he was already lodged in jail. However, the State counsel has not disputed the fact that FIR in the present case was registered against unidentified persons and no incriminating article was recovered from the possession of the petitioner and further, the trial is yet to commence.

I have considered the submissions made by the counsel for the parties.

Admittedly, FIR in this case was registered against unknown persons who made an attempt to loot ATM in the area of Kaithal during night time. After registration of the FIR, co-accused Gulsher was arrested who made disclosure statement against the present petitioner and then the petitioner was arrested on 24.12.2021 but nothing was recovered from his possession. Admissibility and reliability of the disclosure statement made by co-accused against the petitioner will be tested during the trial. After completion of investigation, the police has presented the challan but charges are yet to be framed and only thereafter, trial is going to commence. Further, it will take time for conclusion of trial. In the given circumstances, no useful purpose is going to be served by keeping the petitioner in custody for any further period.

In view of the above, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned."

4. Learned counsel for the State though opposes the prayer for

grant of bail but on instructions fairly submits that challan has been

presented. He is not in a position to distinguish the case of the petitioner qua the co-accused so far as grant of bail is concerned.

5. Without commenting on the merits of the case, on the basis of parity of petitioner vis-a-vis co-accused so far as grant of bail is concerned, petitioner has no criminal antecedent and though the investigation is complete conclusion of trial is likely to take time, the petitioner is granted bail subject to his furnishing bail bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

6. The petition is allowed.

7. Since the main case has been allowed, pending application if any is rendered infructuous.

[AVNEESH JHINGAN]
JUDGE

2nd August, 2023
Parveen Sharma

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