

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

107+216

CRM-M-26928-2023 (O&M)

Date of decision: 20.09.2023

Rakesh

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Mayur Karkra, Advocate
for the petitioner.

Ms. Trishanjali Sharma, DAG, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

CRM-39642-2023 and CRM-39650-2023

For the reasons mentioned in the applications, the same are allowed and true translated copy of challan/final report is taken on record as Annexure P-7 subject to all just exceptions.

CRM-M-26928-2023 (O&M)

1. The petitioner is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.9 dated 20.01.2023 under Sections 25 of the Arms Act, 1959 registered at Police Station Sadar Tohana, District Fatehabad.

2. Learned counsel appearing for the petitioner, inter alia, contends that the petitioner is innocent and has been falsely implicated in the case in hand on the basis of an alleged disclosure statement made by co-accused Kapur alias Golu, who too had been nominated as an accused on the basis of a disclosure statement made by accused Bhagat Singh, after he was nabbed by the police along with the recovered arms

and ammunition (.32 bore and two live cartridges were taken vide seizure memo). Learned counsel submits that there was no material on record to link the petitioner with the alleged recovery, other than the disclosure statement, which admittedly does not have much evidentiary value. It has been submitted that the trial Court, while declining the concession of bail to the petitioner, had wrongly noticed that there were as many as six criminal cases pending against him, whereas fact of the matter was that he already stood acquitted in five of the six cases registered against him, and in the fifth case he had been released on probation. It has been submitted that as many as 12 prosecution witnesses have been cited and there is no likelihood of the trial concluding in the near future as the prosecution evidence has not yet commenced. Learned counsel, therefore, prays for extending the concession of bail, who has now been in custody since 11.02.2023.

3. Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner, on instructions from PSI Gajinder Singh, has not been able to dispute the submissions made by the counsel opposite qua his acquittal in 04 out of the 05 cases which were lodged against him and qua he having been released on probation in the fifth case. She submits that the next date fixed before the Trial Court is 22.09.2023 when the prosecution evidence is likely to commence.

4. I have heard learned counsel for the parties and perused the material placed on record.

5. The petitioner has been in custody since 11.02.2023. The trial would take considerable time to conclude. In the facts and

circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner.

6. Accordingly, the instant petition is allowed. The petitioner be admitted to bail to the satisfaction of the Trial Court/Duty Magistrate concerned. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

7. Needless to add, in case the petitioner misuses the concession of bail granted to him, the State would be at liberty to seek cancellation of the same.

20.09.2023

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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