

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

233

CRM-M-29014-2023

Date of decision: 4th July, 2023

Ikram

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Sandeep Saini, Advocate for
Mr. Davneet Sangwan, Advocate for the petitioner.
Mr. Rajiv Sidhu, DAG, Haryana.

AVNEESH JHINGAN, J (Oral):

1. 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 and 34 IPC, 1860 and Section 25 of Arms Act (offences under Sections 186, 332, 353 IPC, 1860) at Police Station City Kaithal, District Kaithal.

2. Learned counsel for the petitioner claims parity with co-accused Rukamdin alias Rukma who was granted regular bail by this court on 22.02.2023.

3. On 22.02.2023, the following order was passed in the case of co-accused :-

“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 tries to distinguish the case of the petitioner with that of co-accused on the ground that he is involved in fourty five other cases but he is not able to distinguish the fact that the co-accused who was granted bail by this Court was also not having clean antecedents.
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, considering that petitioner is in custody since 23.02.2021 and that 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. It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.
8. Since the main case has been allowed, the pending application(s), if any is rendered infructuous.

[AVNEESH JHINGAN]
JUDGE

4th July, 2023
anuradha

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