

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

212

CRM-M-53454-2022

Date of Decision: 13.01.2023

Sahid @ Khubi

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: - Mr. Saleem Ahmed, Advocate for the petitioner.

Mr. Gaurav Bansal, Assistant Advocate General, Haryana.

ASHOK KUMAR VERMA, J. (ORAL)

Reply dated 10.01.2023, filed by way of affidavit of Sh. Vishnu Prashad, Assistant Commissioner of Police, Mujessar, Faridabad, on behalf of respondent-State, is taken on record.

The petitioner has filed the present petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No. 180 dated 05.09.2021 registered under Section 307 read with Section 34 IPC; Section 13(1) of HGSG Act and Section 25 of the Arms Act at Police Station Dhauj, District Faridabad.

Briefly, the present FIR was registered on the complaint of Ashok Baba, on the allegations that on 05.09.2021 at around 3:00 A.M., he being member of Gao Raksha Yuva Vahini Trust, along with Vikas Sharma and Pankaj and his other fellows were patrolling in order to catch the persons involved in cow smuggling. When they reached near barricade of CIA 56, one TATA 407 was seen coming from Fatehpur Tagga, being driven by the petitioner along with his co-accused Javed @

Jubbi. The petitioner had fired upon them, however, he missed the target. The back portion of pistol was fell down. Thereafter, both the assailants managed to flee way from the spot.

Learned counsel for the petitioner, *inter alia*, contends that the petitioner has falsely been implicated in the present case. He has no connection whatsoever with the alleged offences. The allegation against the petitioner is that he had fired gun shots upon the complainant party. Nobody including the informants had sustained any kind of injury. Challan has already been present in the instant case and next date before the trial Court is 31.01.2023, for framing of charges. The petitioner is in custody since 31.05.2022. The trial is likely to take long time. No useful purpose will be served by further detention of the petitioner in custody. Co-accused of the petitioner, namely; Javed @ Jabid, had already been granted the concession of regular bail by a co-ordinate Bench of this Court vide order dated 13.07.2022 (Annexure P-2) passed in CRM-M-22617-2022. Thus, it is prayed that treating the case of the petitioner on the same parity as that of his co-accused, he may ordered to be released on regular bail.

On the other hand, learned State counsel has opposed the present petition on the ground that the petitioner is a habitual offender and there is every likelihood that the petitioner may misuse the concession of bail granted to him.

Keeping in view the facts and circumstances of the case, the custody period of the petitioner, the fact that co-accused of the petitioner had already been granted the concession of regular bail by this Court vide

order dated 13.07.2022 (Annexure P-2) and also the fact that conclusion of trial may take a long time, but without commenting on merits of the case, I am of the considered view that the petitioner deserves the concession of regular bail.

Therefore, the petition is allowed and petitioner-Sahid @ Khubi, is ordered to be released on regular bail, subject to his furnishing personal and surety bonds in the sum of Rs.1,00,000/- each, before the learned trial Court/Chief Judicial Magistrate concerned and also subject to his not tampering with prosecution evidence and also his not influencing prosecution witnesses and besides his appearing before the trial Court concerned as and when directed to make his personal appearance unless validly exempted. Further, subject to petitioner making an undertaking before the learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned, that in case, he re-indulges in criminal activities, whereupon, on breach thereof, the order made today, shall become *ipso facto* annulled, and, that upon his being forthwith arrested by the Investigating Officer concerned, the latter shall produce the petitioner before the trial Court concerned, for the latter making an order for his being put to judicial custody.

The aforesaid observations are meant only for the disposal of the present petition and shall not affect the merits of the trial arising from FIR (supra).

January 13, 2023
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(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No