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

CRM-M-4968-2024

Date of Decision:07.02.2024

Rajbir Singh

...Petitioner

VS.

State of Haryana

...Respondent

Coram : Hon'ble Mr. Justice N.S. Shekhawat

Present : Mr. Rahul Deswal, Advocate
for the petitioner.

Mr. Rajinder Kumar Banku, Deputy Advocate General, Haryana.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the instant petition under Section 439 of the Cr.P.C. with a prayer to grant regular bail to him in case FIR No.395 dated 14.12.2017 registered under Sections 307 of IPC and Section 25 of Arms Act, (under Sections 216, 120-B of IPC added later on), at Police Station Narnaund, District Hansi.

2. Learned counsel for the petitioner contends that the FIR was initially registered against unknown persons. Neither the petitioner was named in the FIR nor any specific role has been assigned to him. Learned counsel further contends that the petitioner was falsely involved in the present case on the basis of the statement made by his co-accused in the police custody and the admissibility of the said statement is yet to be adjudicated by the trial Court during the course of trial. He further contends that the petitioner has been falsely involved in the present case after an unexplained delay of 04 years and

03 months, after the registration of the FIR. Learned counsel further contends that even as per the allegations levelled by the prosecution, the petitioner was driving Innova car, in which other assailants, namely, Dharmender @ Mota, Raghu @ Raghav and Sachin @ Vikas had come and fired gun shots. Thus, it is evident that the petitioner had not participated in the commission of crime. Learned counsel further contends that the petitioner was arrested in the present case on 23.03.2022 and is in custody for the last about 01 year and 10 months. He further contends that his co-accused, namely, Gautam, Shiv Kumar, Jaibir @ Jaila, Sachin @ Vikas, Naresh, Dharmendra, Raghu @ Raghav, Aakash @ Mota and Rakesh @ Midha have already been granted the concession of bail on different dates. Thus, the petitioner is also liable to be enlarged on bail.

3. On the other hand, learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner on the ground the petitioner is facing the prosecution in five more criminal cases. Even in one case, he has been ordered to be convicted by the trial Court in Rajasthan.

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

5. No doubt, very serious and specific allegations have been levelled against the present petitioner, however, the petitioner cannot be confined in jail for an indefinite period. The petitioner was arrested in the present case on 23.03.2022 and is in custody for the last more than 01 year and 10 months. Apart from that, it is also apparent that only 06 witnesses, out of total 42 witnesses have been examined so far and the trial may take considerable time in concluding the trial in the present case. Apart from that, learned State counsel has submitted that the petitioner is facing prosecution in five more cases,

however, it can never serve as a ground to deny the concession of bail to the petitioner in the present case, especially when the petitioner has been able to make out a case for grant of bail in the present case. Thus, the petitioner can never be confined in jail for an indefinite period as the Hon'ble Supreme Court in the matter of ***Prabhakar Tewari Vs. State of U.P., and another 2020(1) R.C.R. (Criminal) 831*** has held that the pendency of several criminal cases against the accused cannot be the basis to refuse the prayer of bail. Similar observations have been made by the Hon'ble Supreme Court in the matter of ***Maulana Mohd. Amir Rashadi Vs. State of U.P. and another 2012(1) R.C.R. (Criminal) 586***.

6. Without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate, concerned, subject to the following conditions:-

- (i) *The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him to disclose such facts to the Court or to any other authority.*
- (ii) *The petitioner shall remain present before the Court on the dates fixed for hearing of the case.*
- (iii) *The petitioner shall not absent himself from the Court proceedings except on the prior permission of the Court concerned.*
- (iv) *The petitioner shall surrender his passport, if any, (if already not surrendered), and in case he is not holder of the same, he shall swear an affidavit to that effect.*
- (v) *The petitioner shall also file his affidavit before the concerned Court, mentioning his ordinary place of residence and number of mobile phone, which shall be used by him during the pendency of the trial. In case of change of place of residence/mobile number, he shall share the details with the concerned Court/learned Trial Court.*

- (vi) *In case, the petitioner involves in any other criminal activity, during the pendency of the trial, it shall be viewed seriously and the prosecution shall be at liberty to move a petition for cancellation of bail granted to him.*
- (vii) *The concerned Court may insist on two heavy local sureties and may also impose any other condition, in accordance with law, while accepting the bail bonds and surety bonds of the petitioner.*
- (viii) *The petitioner shall report every 1st and 3rd Monday of English calander month before the concerned SHO till the conclusion of the trial and SHO shall mark his presence by making an entry in the rojnamcha. In case, he does not report on every 1st and 3rd Monday before the concerned SHO, it shall be viewed seriously and the concession granted to him shall be liable to be cancelled and the State of Haryana shall be at liberty to move an appropriate application in this regard.*

07.02.2024
hemlata

(N.S.SHEKHAWAT)
JUDGE

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