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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

212

CRM-M-11147-2024
Date of decision : 21.05.2024

Jaswinder Singh @ Jaswant Singh @ Jassi Petitioner

versus

State of Punjab Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Kuldip Singh, Advocate
for the petitioner.

Mr. Jaswinder Singh Arora, DAG, Punjab
with ASI Paramjit Singh.

PANKAJ JAIN, J. (Oral)

1. Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.160 dated 11.12.2023, registered for the offences punishable under Sections 436, 506, 148 and 149 of IPC at Police Station Sadar Jalalabad, District Fazilka.
2. Reply by way of affidavit of Acchru Ram Sharma, PPS, Deputy Superintendent of Police, Sub Division Jalalabad on behalf of the respondent-State has been filed. The same is taken on record.
3. As per the contents of the FIR, it has been alleged as under:-

“Statement of Ashok Kumar son of Sh. Jagan Nath, resident of Prabhat Singh Wala, aged about 55 years, Mobile No.94173-66474. Stated that I am resident of above said address and is running a

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Karyana shop on the chowk of village Prabhat Singh Wala Uttar. On 06.12.2023 at about 8 PM, Daljit Singh @ Gopi son of Mahinder Singh resident of Prabhat Singh Wala and Jaswant Singh @ Jassi son of Gurdeep Singh resident of Dhandi Qadim came at my shop. They asked 2 cigarettes and sweet worth Rs.20/ from me, to whom I gave 2 cigarettes and sweet who told that we will give the money later. After sometime, they came at my shop and asked for tobacco and I gave it to them and demanded Rs.60/ then both of them started abusing me and started throwing bricks and pavels from outside my shop. On raising the alarm of other customers standing inside the shop, they fled away. After sometime at about 9 PM, Daljit Singh, Jaswant Singh @ Jassi and Mahinder Singh son of Gajjan Singh and 3-4 unknown persons also came and raising lalkaras that you have asked money against articles from us, today we will shoot you. Upon which Daljit Singh @ Gopi take out the pistol which did not shoot suddenly. I and my daughter was inside the shop at that time, we closed the shutter. Then on 11 PM, they all of them brought the petrol and sprinkled it on both the shutters of my shop and set my shop into fire. Due to fire, all these persons fled away from the spot. The whole incident regarding setting the fire is recorded in CCTV cameras. Upon my alarm, neighbours gathered on the spot. Out of whom, Mukhtiar Singh son of Dona Singh, my son Sahil Papneja and I controlled the fire by throwing water due to which my shop counter and articles lying in the counter was burnt with which I suffered a loss of about Rs.50,000/-. If the fire was not controlled then there would be more

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financial loss and they are still extending life threats to me and my family that we will not let you live in the village. Appropriate legal action be taken against them. Statement has got been recorded, heard which is correct.xxxx”

4. Petitioner is behind bars since 01.02.2024 and by now has undergone custody of more than 03 months and 17 days.

5. Counsel for the petitioner submits that apart from the offence punishable under Section 436, all other offences for which the petitioner has been booked are bailable. Challan stands presented. Investigation is complete. Thus, there cannot be any apprehension that the petitioner shall tamper with the evidence.

6. Bail plea is opposed by the State counsel to submit that the petitioner is a habitual offender and has one more FIR.

7. Faced with the situation, counsel for the petitioner relies upon following observations made by Supreme Court in the case of *'Prabhakar Tiwari vs. State of U.P.' reported as (2020) 1 RCR (Cri.)*

831:-

“6. In the case of [Mahipal Vs. Rajesh Kumar @ Polia & Anr. \(Criminal Appeal No.1843](#) of 2019) decided on 5 th December, 2019, a coordinate Bench of this Court has discussed the scope of jurisdiction of the appellate Court in setting aside an order of granting bail. The two key factors for interfering with such an order are non-application of mind on the part of the Court granting bail or the opinion of the Court in granting bail is not borne out from a prima facie view of the evidence on record. In the case of

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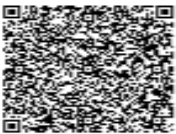


Maulana Mohammed Amir Rashadi vs. State of Uttar Pradesh and Another [(2012) 2 SCC 382], a two Judge Bench of this Court declined to interfere with an order of the High Court granting bail to an accused having considered the factual features of that case.

7. On considering the submissions of the learned counsel for the parties. Having regard to the circumstances of this case, in our opinion, there has been no wrong or improper exercise of discretion on the part of the High Court in granting bail to the accused. The factors outlined in the case of Mahipal (supra) for testing the legality of an order granting bail are absent in the order impugned. The materials available do not justify arriving at the conclusion that the order impugned suffers from non-application of mind or the reason for granting bail is not borne out from a prima-facie view of the evidence on record. The offence alleged no doubt is grave and serious and there are several criminal cases pending against the accused. These factors by themselves cannot be the basis for refusal of prayer for bail. The High Court has exercised its discretion in granting bail to the accused Vikram Singh upon considering relevant materials. No ex-facie error in the order has been shown by the appellant which would establish exercise of such discretion to be improper. We accordingly sustain the order of the High Court granting bail. This appeal is dismissed.”

8. In view of above, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.

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9. Needless to say nothing recorded herein shall be construed
to be an expression of an opinion on the merits of the case.

(PANKAJ JAIN)
JUDGE

21.05.2024

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Whether speaking/reasoned : Yes

Whether Reportable : No