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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-13010-2023 (O & M)
Date of decision: 30.01.2024

Sumit Kumar Petitioner
V/s
State of Haryana ...Respondent

CORAM: HON’BLE MR. JUSTICE JASJIT SINGH BEDI

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

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

JASJIT SINGH BEDI, J. (Oral)

CRM-3615-2024

The application for placing on record the documents (Annexures A-1 to A-4) is allowed as prayed for subject to all just exceptions. The same are taken on record.

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The prayer in the present petition under Section 439 Cr.P.C. is for the grant of the regular bail to the petitioner in FIR No.174 dated 25.05.2022 under Sections 147, 148, 149, 427, 436, 457 and 380 IPC, registered at Police Station City Ratia, District Fatehabad.

2. The present FIR came to be registered at the instance of Chhindrapal and reads as under:-

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“To, The SHO, Police Station City Ratia. It is requested that I am Chhindrapal, former Sarpanch son of Bhana Ram son of Wazir, resident of Band Basi Nagal and do farming. My nephew Tony son of Radheshyam son of Ramswaroop caste Audh Rajput resident of Ward No.14 Ram Nagar Colony Ratia and Tony's uncle Banti son of Radheshyam son Ramswaroop caste Audh Rajput resident of Ward No.14 Ram Nagar Colony Ratia also lives in his house built together. They had gone out after locking the house and there was no one at their house. I had come to Ratia on 24.05.2022 at around 9:30 pm. I got information that in the closed house of Tony and Bunty, Makkhan alias Mohit son of Itwari Lal resident of Ward No.13 Arora Colony Ratia, Bundi, Ghoda resident of Ward No.4 Ratia, Sundar resident of Ratia and Happy alias Padad and 10/12 other boys who taking sword, binde, pipe, iron in their hands, they broke the lock of my relative Tony and Bunty's house, entered the house, broke open the doors of both the houses, collected household articles, threw them outside, vandalized the goods and set them on fire. Goods worth lakhs of rupees were burnt by setting fire to the goods lying inside the house. When I went to the spot and saw, the neighbors had extinguished the fire there and had also informed the police. Therefore, you are requested that the strictest legal action should be taken against Makhan and his associates. Dated 25.05 2022 sd/- Chhinderpal Applicant Chhinderpal Former Sarpanch son of Bhana Ram son of Wazir Chand resident Nagal Mo. No. 08607582008”.

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3. The petitioner came to be nominated as an accused on the basis of the disclosure statement of his co-accused.

4. The learned counsel for the petitioner contends that the petitioner had been falsely implicated in the present case. The disclosure statement inculcating the petitioner has no evidentiary value, it having been made in police custody. Pursuant to his arrest, nothing was recovered from the petitioner and the recovery of an iron *kappa* had been foisted upon him. In the four other cases registered against him, he had been granted the concession of bail. As he was in custody since 07.07.2022 but none of the 25 prosecution witnesses had been examined so far, the Trial of the present case was not likely to be concluded anytime soon and therefore, he was entitled to the concession of bail.

5. The learned counsel for the State, on the other hand, contends that the allegations levelled against the petitioner and his co-accused were grave and therefore, he was not entitled to the concession as prayed for. He, however, concedes that the petitioner is in custody since 07.07.2022, none of 25 prosecution witnesses had been examined so far and that in the other four cases registered against him, he had been granted the concession of bail.

6. I have heard the learned counsel for the parties.

7. The veracity of the prosecution case against petitioner and his co-accused shall be adjudicated upon during the course of the trial. Admittedly, he is in custody since 07.07.2022 and none of the 25 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. In this situation, the

further incarceration of the petitioner is not required, moreso, when in the

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other four cases registered against him, he has been granted the similar concession.

8. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, Sumit Kumar is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

9. The petitioner shall appear on the first Monday of every month before the police station concerned till the conclusion of the trial and furnish an affidavit each time that he is not involved in any case/crime other than the cases mentioned in the custody certificate dated 29.01.2024.

10 If any attempt whatsoever is made by the petitioner and/or his family members/friends to contact/threaten/intimidate any of the witnesses of the present occurrence, the State/complainant shall be at liberty to move an application for cancellation of bail granted vide this order.

11. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.50,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from Trial without sufficient cause.

12. This petition stands disposed of.

January 30, 2024
sukhpreet

(JASJIT SINGH BEDI)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No