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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-16672 of 2023

Date of decision:- 23.01.2024

ABHISHEK @ ASHU

... Petitioner

Versus

STATE OF HARYANA

... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. Sajjan Singh, Advocate
for the petitioner.

Mr. Vishal Malik, DAG, Haryana.

SANJIV BERRY, J. (ORAL)

Learned State counsel has filed custody certificate dated 22.01.2024, the same is taken on record. Copy thereof has been supplied to the counsel opposite.

2. The instant petition has been preferred by the petitioner under Section 439 of the Code of Criminal Procedure for grant of regular in the following case :-

FIR No.	Dated	Sections	Police Station
202	11.05.2018	332, 353, 392, IPC and 25, Arms Act(397, 420, 468 and 471 IPC were added lateron)	Kharkhoda, District Sonipat

3. It is *inter alia* contended by learned counsel for the petitioner that the petitioner is innocent and has been falsely implicated in this case.

He submits that the petitioner and other co-accused Rahul were arrested by Sampla Police in another FIR bearing No. 421 dated 04.07.2018 under Sections 186, 353, 307, and 34 IPC and 25 of the Arms Act and one firearm was recovered from the petitioner and the petitioner was taken on production warrants by the Investigating Agency in the present FIR. The petitioner was not named in the FIR and his name surfaces in the disclosure statement made by co-accused Sonu (Annexure P-2). He submits that no overt act has been attributed to the petitioner and co-accused Ashish and Sonu have been granted concession of bail vide orders dated 02.06.2018 and 13.06.2018 (Annexure P-7 and P-8) respectively. He has admitted the fact that there are some other cases pending against the petitioner, though he has referred to the judgment of Hon'ble Apex Court passed in ***Prabhakar Tewari v. State of U.P. & Anr., Law Finder Doc Id # 1670858*** and prays for grant of concession of bail to the petitioner.

4. Learned State counsel has opposed the bail application on the ground that there are other criminal cases pending against the petitioner and he is habitual, as such he is not entitled to concession of bail.

5. After considering the rival contentions and perusing the record, it transpires that petitioner was arrested by Sampla Police in another FIR bearing No. 421 dated 04.07.2018 under Sections 186, 353, 307, and 34 IPC and 25, of the Arms Act and he was taken on production warrants by the Investigating Agency in the present FIR on 26.12.2018. Learned State counsel has opposed the bail petition on the ground that there are other criminal cases pending against the petitioner. However, taking into consideration the law laid down by Hon'ble Apex Court in ***Prabhakar***

Tewari’s case (supra) wherein it has been held that while dealing with the grant of bail the pendency of several criminal cases against the accused cannot by itself be considered sufficient for refusal of prayer for bail. Even otherwise, in the present case no specific overt act has been attributed to the petitioner in the alleged occurrence and his name surfaces in the present case on the disclosure statement made by co-accused Sonu (Annexure P-2). Co-accused co-accused Ashish and Sonu have been granted concession of bail vide orders dated 02.06.2018 and 13.06.2018 (Annexure P-7 and P-8) respectively. The petitioner is in custody since 26.12.2018 in the present case. The conclusion of trial to ascertain criminal liability, if any, of the petitioner will take sufficient long time and no useful purpose would be served by keeping the petitioner behind bars any longer.

6. Resultantly, without commenting on the merits of the case, it is observed that no purpose would be served in keeping petitioner behind bars. Therefore, the present petition is allowed. The petitioner is ordered to be released on bail subject to furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court concerned, if not required in any other case; undertaking to regularly appear on each and every date; not to leave the country without prior permission of the Court; and not to tamper with evidence of prosecution in any manner.

7. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

(SANJIV BERRY)
JUDGE

23.01.2024

Gyan	i)	Whether speaking/reasoned?	Yes/No
	ii)	Whether reportable?	Yes/No