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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(225)

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Date of Decision : 09.09.2024

Deepak Kumar Chaudhary ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Gaurav Singla, Advocate
for the petitioner.

Mr. Bhupinder Singh, DAG, Haryana.

KULDEEP TIWARI, J.(Oral)

1. Through the instant petition filed under Section 439 Cr.P.C., the petitioner prays for grant of regular bail in case FIR No.802 dated 10.09.2016 under Sections 307, 394, 459, 120-B and 34 of the IPC, 1860 and under Section 25 of the Arms Act, 1959, registered at Police Station City Ballabhgarh, District Faridabad, Haryana (Annexure P-1).

2. The allegations which are extracted from the FIR (supra), are that on dated 09.09.2016, at about 11.00 p.m., one Guddu, his brother-in-law (present petitioner-Deepak Kumar Chaudhary) and two other persons entered into the house of Shanti Devi, whereupon, Guddu demanded money from her and on her refusal to give money, co-accused Guddu pulled out a country made pistol, from his pocket, and fired a shot on the face of the complainant, and snatched her purse containing Rs.10,000/-. On this allegation, the instant

FIR came into existence. Subsequently, Ombir @ Guddu was arrested. The



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other co-accused Charan @ Chaman was also arrested. However, the petitioner could not be arrested, which led the learned trial Court concerned, to declare him as a proclaimed offender, vide order dated 11.10.2018. Thereafter, he surrendered before the police on dated 13.04.2024, and till date, he is behind the bars.

3. On asking for the relief of regular bail, learned counsel for the petitioner submits that the petitioner has suffered incarceration of about 05 months, as on date, and there is no allegation against the present petitioner, that he has caused any injury to the complainant, rather, the allegations are only against the co-accused Ombir @ Guddu, who has already been granted the relief of regular bail by the learned trial Court concerned, vide order dated 17.11.2020. He further submits that the other co-accused namely, Charan @ Chaman, son of Zile Singh, was also granted the relief of regular bail by the learned trial Court concerned, vide order dated 05.06.2020. Finally, he submits that before his surrender before the police, the complainant was examined, in the trial of the co-accused, where she has turned hostile.

4. Learned State counsel has also placed on record the custody certificate dated 06.09.2024, qua the petitioner, today in the Court. The same is taken on record, which reflects that the petitioner has suffered incarceration of 04 months and 23 days, as on today and the other case, which have been shown to be registered against the petitioner is under Section 174-A, IPC, 1860, i.e. on account of the petitioner was declared proclaimed offender in the instant case.

5. Learned State counsel on instructions imparted to him from the Investigating Officer concerned, opposed the grant of concession of regular bail to the petitioner, on the ground that petitioner remained a proclaimed



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offender for about five and half years, and he is involved in one other criminal case, as mentioned in the custody certificate.

6. This Court has heard the rival submission of the parties concerned and is of the view that the instant petition is amenable to be allowed for the reasons hereinabove extracted :-

(i) that the petitioner has suffered incarceration of about 05 months, as on date and no injury, whatsoever has been attributed to him;

(ii) The petitioner, except this case and the case registered under Section 174-A IPC, 1860 which arise out of the instant FIR, is not involved in any other case;

(iii) and the trial is yet to begin in the instant matter as only supplementary challan has been filed against the petitioner after he surrender before the investigating agency;

(iv) the main accused has already been granted the concession of regular bail, by the learned trial Court, concerned.

7. Keeping in view the facts and circumstances of the case, further incarceration of the petitioner is not warranted at all, at this stage. Accordingly, the instant petition is **allowed**.

8. The petitioner is ordered to be released on bail on furnishing of bail bonds and surety bonds to the satisfaction of Chief Judicial Magistrate/trial Court/Duty Magistrate, concerned.

9. However, anything observed here-in-above shall have no effect on the merits of the case and is meant for deciding the present petition only.

(KULDEEP TIWARI)
JUDGE

September 09, 2024
Manpreet

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