

CRM-M-49681-2023

Date of Decision:12.02.2024

Harjot Singh @ Shera

...Petitioner

VS.

State of Haryana

...Respondent

Coram : Hon'ble Mr. Justice N.S. Shekhawat**Present :** Mr. Parminder Singh, Advocate
for the petitioner.

Ms. Sheenu Sura, DAG, Haryana.

N.S.Shekhawat J. (Oral)

1. Reply by way of an affidavit of Deputy Superintendent of Police, City Karnal, District Karnal has been filed on behalf of the respondent-State in Court today and the same is taken on record.

2. 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.152 dated 25.05.2023 registered under Sections 323, 341, 363, 506 of IPC, Section 10 of POCSO Act and Sections 25-54-59 Arms Act, at Police Station Ram Nagar, District Karnal.

3. Learned counsel for the petitioner contends that the petitioner has been falsely involved in the present case along with his co-accused Dev, who has been now declared to be innocent, during the course of investigation. Learned counsel further contends that the alleged incident had taken place on 18.05.2023 and the FIR was registered on 25.05.2023 and the complainant has

rendered no explanation for the delay of 7 days in registration of the present FIR. He further contends that in fact, the relatives of the complainant, namely, Rashmit @ Rajan along with 3/4 other persons had beaten up the petitioner brutally and on the basis of the complaint moved by the present petitioner, one FIR No.248 dated 23.06.2022 under Sections 148, 149, 323, 324, 341, 506 of IPC at Police Station Ram Nagar, Karnal has been registered against the relatives of the complainant (Annexure P-2). He further contends that the present FIR has been got registered by the complainant due to the previous enmity between the parties. Learned counsel further contends that in the present case, the statement of son of the complainant was recorded under Section 164 Cr.P.C. and the alleged victim has improved his version further, just to ensure the false implication of the petitioner. Learned counsel further contends that the petitioner was arrested in the present case on 28.05.2023 and the challan has already been presented against him.

4. On the other hand, learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner on the ground that six more FIRs have already been registered against the present petitioner and the petitioner is a habitual offender. However, she does not dispute the fact that the final report under Section 173 Cr.P.C. has already been presented against the petitioner and the trial has not even formally started against the present petitioner.

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

6. The petitioner is in custody since 28.05.2023 and the charge has not been framed against the petitioner, so far. Apart from that, the custody of the petitioner is not required for the purpose of investigation in any manner.

7. 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 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 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 Punjab shall be at liberty to move an appropriate application in this regard.*

(N.S.SHEKHAWAT)
JUDGE

12.02.2024
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