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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-57944-2023

Date of Decision: 16.01.2024

Tahir

...Petitioner

vs.

State of Haryana

...Respondent

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

Ms. Sheenu Sura, DAG, Haryana.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the instant petition under Section 439 of the Cr.P.C. with a prayer to grant regular bail in case FIR No.190 dated 23.05.2020 registered under Sections 34, 186, 307, 353, 379 of IPC, at Police Station City Sohana, District Gurugram.

2. Learned counsel for the petitioner contends that the provision of Section 307 IPC has been wrongly invoked as no police officials had suffered an injury in the present case. He further contends that even the ingredients of offence under Section 353 IPC are completely missing in the present case. Learned counsel further contends that similarly placed co-accused, namely, Irfan has already been granted the concession of bail by this Court on 22.09.2023 in CRM-M-47097-2023 (Annexure P-7). He further submits that the petitioner was arrested in the present case on 02.04.2023 and has undergone more than 09 months of custody. Learned counsel further contends that three more cases were ordered to be registered against the present petitioner,

however, he is on bail in the said cases. As per learned counsel, only 7 witnesses, out of total 28 witnesses, have been examined so far and the conclusion of the trial may take quite a long time.

3. On the other hand, learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner. She further submits that the petitioner is likely to repeat the crime and may also abscond from the process of law as he was declared proclaimed offender earlier in the present case.

4. I have heard the learned counsel for the parties and gone through the record with their able assistance.

5. The petitioner was arrested in the present case on 02.04.2023 and is in custody for the last more than 09 months. The petitioner is on bail in all three other cases and similarly placed co-accused has also been ordered to be released on bail. Even the apprehension expressed by learned State counsel can be addressed by imposing stringent conditions on the petitioner while granting him concession of bail in the present case.

6. 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 surties 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 Haryana shall be at liberty to move an appropriate application in this regard.*

16.01.2024
hemlata

(N.S.SHEKHAWAT)
JUDGE

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