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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CRM-M-23711-2024
Date of Decision: 20.01.2025**

Jatinder Kumar alias Patwari

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Manjinder Singh Saini, Advocate for the petitioner.

Mr. P.S. Bhandari, AAG, Punjab.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present is a second petition filed under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail to the petitioner in case FIR No.164 dated 22.12.2016, under Sections 307, 325, 326, 323, 394, 148, 149 IPC, registered at Police Station Sadar Hoshiarpur, District Hoshiarpur.

2. Learned counsel for the petitioner submitted that the petitioner is in custody for 1 year 6 months and 3 days since he was arrested on 13.07.2023. He further submitted that the present FIR was lodged against the petitioner and the other accused but the petitioner was not arrested and he was rather declared as proclaimed offender and therefore, the trial could not proceed against him whereas the trial proceeded against the other accused, who have since been acquitted by learned trial Court vide judgment dated 26.10.2022 (Annexure P-2). He further submitted that the witnesses did not support the prosecution story and therefore, the petitioner may be considered for grant of regular bail since the trial is proceeding independently after he was arrested. He also submitted

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that since the other accused have been acquitted, on this ground as well, he may be considered for grant of regular bail.

3. On the other hand, Mr. P.S. Bhandari, AAG, Punjab has opposed the grant of regular bail to the petitioner and while referring to the status report filed by the DSP, Sub Division City, Hoshiarpur, submitted that it is a case where the petitioner was one of the main accused and the allegation against him is with regard to giving of a hammer blow on the centre of the head of the injured and he absconded and was declared as proclaimed offender and therefore, the trial could not proceed against him and it proceeded against the other accused although they have been acquitted but the petitioner was later on arrested on 13.07.2023. He further submitted that although no witnesses have been examined till date and the trial is proceeding against the present petitioner only, but there is every likelihood and a strong apprehension that in case the petitioner is released on regular bail, then he may again abscond and may also affect the material witnesses. He also submitted that the petitioner is a habitual offender and is involved in three more cases i.e. FIR No.22, dated 28.03.2019 under Sections 379-B, 392, 397, 323, 341 IPC and Section 25 of Arms Act registered at Police Station Chabbewal, District Hoshiarpur, FIR No.90, dated 23.07.2017, under Sections 307, 148, 149, 120-B IPC and Section 25 of Arms Act registered at Police Station City, District Hoshiarpur and FIR No.11, dated 07.02.2018, under Sections 379-B and 411 IPC, registered at Police Station Sadar, District Hoshiarpur and considering the conduct of the petitioner, he is not entitled for grant of regular bail.

4. I have heard the learned counsels for the parties.

5. The petitioner is stated to be in custody for 1 year 6 months and 3 days and as per the facts so stated by the learned counsel for the parties, the



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petitioner was one of the accused in which allegation against him is of giving hammer blow on the centre of the head of the injured. The petitioner was declared as proclaimed offender because he was absconding but the trial commenced pertaining to the other co-accused, who have since been acquitted. Although it has been stated by the learned counsel for the petitioner that the witnesses did not support the prosecution version but so far as the present petitioner is concerned, before considering his prayer for grant of regular bail, his previous conduct also has to be seen. The petitioner absconded and was declared as proclaimed offender and therefore, the trial could not proceed against him and now the trial has started against him although he is in custody for 1 year 6 months and 3 days. The petitioner is a habitual offender and is involved in three more cases.

6. After hearing the learned counsels for the parties, this Court is of the view that considering the aforesaid facts and circumstances and also considering the conduct of the petitioner and the gravity of the offence involved, the petitioner does not deserve the concession of regular bail. Consequently, finding no merit in the present petition, the same is hereby dismissed.

7. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of present petition.

20.01.2025

Bhumika

(JASGURPREET SINGH PURI)

JUDGE

1. Whether speaking/reasoned

Yes/No

2. Whether reportable:

Yes/No