

CRM-M-1259-2018

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-1259-2018

Date of Decision: 22nd February, 2018

Kaptan

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASI

Present: Mr. Rakesh Nehra, Advocate
for the petitioner.

Mr. Sharad K. Yadav, DAG, Haryana.

AUGUSTINE GEORGE MASI, J. (ORAL)

This is the second petition for regular bail under Section 439 of the Code of Criminal Procedure, 1973, filed by the petitioner in FIR No.298, dated 02.08.2011, registered at Police Station Sampla, District Rohtak, under Sections 148, 149 and 302 of the Indian Penal Code. The first petition of the petitioner for regular bail was dismissed as withdrawn on 01.05.2014.

It is the contention of the learned counsel for the petitioner that the petitioner is in custody since August, 2011. He contends that initially, challan was presented against the five persons including the petitioner but thereafter, at the stage when statements under Section 313 of Cr.P.C. stood recorded, an application under Section 319 of Cr.P.C. was preferred, which application was initially dismissed by the learned trial Court, however, on a revision preferred by the complainant, the learned Revisional Court

remanded the case back to the trial Court for fresh decision whereafter the trial Court had proceeded to allow the same and called 4 other persons as additional accused vide order dated 29.08.2014. Fresh charge has been framed on 10.01.2017 and thereafter, the trial is in progress. Counsel contends that the petitioner is 68 years' old person and is in custody for more than 6½ years. He contends that the trial is not likely to conclude soon and the co-accused of the petitioner namely Sonu @ Manoj, who is similarly placed as the petitioner with similar allegations levelled against him, has been granted the benefit of regular bail by this Court vide order dated 22.12.2017 in CRM-M-48153 of 2017, titled as 'Sonu @ Manoj Vs. State of Haryana' (Annexure P-7). Counsel prays for the same benefit.

Counsel for the State, on the other hand, contends that there are 11 injuries which have been found on the person of deceased-Suresh in the post mortem report. He states that one injury has been found on the head of deceased-Suresh. He, however, could not explain as to how one injury could be attributed to Kaptan Singh and Ram Chander as per the allegations in the FIR. Further, out of total 22 prosecution witnesses, 7 witnesses have been examined and the next date before the trial Court is 01.03.2018. This, counsel for the State contends on instructions from ASI Kaptan Singh, Police Station Sampla, District Rohtak. Counsel for the State could not dispute the factual aspect with regard to the summoning of additional accused and framing of fresh charge in 2017.

I have considered the submissions made by the counsel for the parties and keeping in view the fact that the petitioner is in custody since

August, 2011 and the trial is not likely to conclude soon as only 7 witnesses have been examined out of total 22 witnesses and co-accused of the petitioner namely Sonu @ Manoj having been granted the benefit as prayed for by the petitioner, the present petition is allowed. Petitioner is directed to be released on the following terms:-

- (i) The petitioner be released on bail to the satisfaction of the concerned CJM/Duty Magistrate.
- (ii) The petitioner shall not enter the limits of District Rohtak till the completion of the trial, save and except the dates of attendance before the trial Court in the present case.
- (iii) Petitioner shall not tamper, influence and threaten the prosecution witnesses and complainant as well.
- (iv) The petitioner to surrender his passport with the trial Court, if he possesses the same.
- (v) In case of violation of the above condition the liberty is reserved to apply for cancellation of bail.

22nd February, 2018
Harish

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No