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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Misc. No. M-645 of 2019 (O&M)

Date of Decision: March 07, 2019

Rajesh Kumar @ Kala

.....Petitioner

versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

Present: Mr. Rajesh Narang, Advocate
for the petitioner

Mr. Deepak Grewal, DAG Haryana

Mr. Sukhvir Singh Sahu, Advocate
for the complainant

Sudhir Mittal, J. (Oral)

CRM-7732-2019

The applicant wishes to place on record Annexure P-3 and prays for exemption from filing certified/typed copy thereof.

Notice of the application.

Mr. Deepak Grewal, DAG Haryana, accepts notice on behalf of respondent-State.

Mr. Sukhvir Singh Sahu, Advocate accepts notice on behalf of the complainant.

They have no objection in case the application is allowed.

Application is, accordingly, allowed subject to all just exceptions and exemption prayed for is granted. Annexure P-3 is taken on record.

CRM-M-645-2019

The petitioner seeks grant of regular bail in case FIR No. 406 dated 06.08.2018 registered under Section 304/34 IPC and Section 3(2)(v) of Schedule Castes and Schedule Tribes (Prevention of Atrocities) Act, 1989.

Learned counsel for the petitioner submits that the petitioner has been in custody since 08.08.2018. The trial is not likely to be concluded at an early date as only one PW has been examined out of total of 18 PWs. There is no other case pending/decided against the petitioner. The petitioner is not named as an accused in the FIR and the petitioner has been implicated in 161 Cr.P.C. statement of Wassan Singh (brother of Nishan Singh). Further, as per the report Annexure P-3 the link between the alleged injuries inflicted on 27.07.2018 and the death has not been established and, therefore, the petitioner deserves to be granted regular bail.

Custody certificate dated 14.02.2019 signed by Deputy Superintendent, Central Jail-II, Hisar, has been filed in the Court today and the same is taken on record. According to this certificate, the petitioner has undergone actual custody of six months and six days and there is no other criminal case pending/decided against him. Thus, as on date, the petitioner has undergone actual custody of almost seven months.

Learned State counsel as well as counsel for the complainant submit that the death was caused due to internal injuries caused by the petitioner and the co-accused and it has been so found by the police in its investigation as it has been stated that the injuries are antemortem in nature. Thus, the petitioner does not deserve the concession of regular bail.

It is not in dispute that the petitioner has been in actual custody for almost seven months now. It is also not in dispute that there is no criminal case pending/decided against the petitioner. The contention of learned counsel for the complainant that injuries being antemortem in nature, according to investigation of the police, the death was caused on account of the said injuries, is misconceived. The report Annexure P-3 conclusively states that link between the injuries suffered and the death has not been established and, therefore, even though the injuries were

death of deceased Nishan Singh. Thus, in my opinion the petitioner deserves to be granted regular bail.

Accordingly, the petition is allowed and the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial Court concerned.

March 07, 2019

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[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No