

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

CRM-M No.7789 of 2020 (O&M)

Decided on: 02.03.2020

Rohit

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. D.P.S. Bajwa, Advocate for the petitioner.

Mr. Naveen Sheoran, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this 2nd petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.177 dated 01.11.2018, for offence punishable under Sections 379-A of the Indian Penal Code, 1860 (in short 'IPC') (Sections 395/201 IPC added later) registered at Police Station Garhi, District Jind.

The earlier petition seeking grant of regular bail to the petitioner was dismissed as withdrawn on 06.09.2019.

Counsel for the petitioner submits that the new ground for filing this 2nd petition is that one of the co-accused of the petitioner has been granted the concession of regular bail.

Counsel for the petitioner has relied upon the order dated 10.02.2020 passed by this Court in CRM-M No.49903 of 2019, vide which the co-accused of the petitioner namely Rahul @ Monu has been granted the concession of regular bail by passing the following order:-

*“This is 2nd petition for grant of regular bail in FIR
No.177 dated 01.11.2018 under Sections 395/201 IPC,*

registered at Police Station Garhi, District Jind; earlier one was dismissed vide order dated 06.09.2019.

Learned counsel for the petitioner submits that as per allegations in the FIR, all the accused persons were having muffled faces and no one was arrested. It is further submitted that thereafter, another FIR No.195 dated 27.11.2018 was registered under Sections 395/201 IPC, at Police Station Garhi, District Jind, wherein two persons namely Rahul @ Monu and Rohit were arrested and on the basis of their disclosure statement, name of the petitioner was surfaced in the present FIR. It is also submitted that the petitioner has already been granted the concession of regular bail vide order dated 24.07.2019 passed in CRM-M-30267-2019 in the said FIR. Learned counsel further submits that the petitioner, in the present FIR, is in custody since 03.12.2018 and the complainant, while appearing as a witness, has not identified any other accused person, except the petitioner, though in the FIR, it is stated that all of them were having muffled faces.

Learned State counsel, on instructions from ASI Suresh Kumar, has not disputed the factual position, however, submitted that out of total 10 prosecution witnesses, 07 PWs have been examined.

Without commenting anything on merits of the case, considering the fact that the petitioner has already been granted bail in aforesaid FIR No.195, where he was arrested and also in view of the fact that he is in custody for the last more than 01 year and 02 months; the case is still at the stage of recording the prosecution evidence and statement of the complainant has already been recorded, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate, concerned.

Petition is disposed of.

Counsel for the petitioner has argued that the petitioner is in custody since 03.12.2018 and out of 10 prosecution witnesses, 07 PWs have already been examined before the trial Court and the conclusion of the trial will take some time.

Counsel for the State, on instructions from ASI Ashok Kumar, has filed the Custody Certificate today in the Court and as per the Custody Certificate, the petitioner is in custody for the last 01 year, 02 months and 25 days.

Without commenting anything on merits of the case, considering the fact that the first bail application of the petitioner was dismissed as withdrawn on 06.09.2019 and now, 07 prosecution witnesses have been examined out of 10 PWs and also in view of the fact that the petitioner has undergone the judicial custody of more than 01 years and 02 months; the co-accused of the petitioner has already been granted the concession of bail and the conclusion of the trial will take some time, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

02.03.2020
yakub

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