

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-14791-2021

Date of decision: - 08.04.2021

Sunil Kumar @ Rocky

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. T.P.S. Tung, Advocate
for the petitioner.

Mr. Sandeep Singh Deol, Deputy Advocate General, Punjab.
(keeping in view the advance copy given).

(Through Video Conferencing)

HARSIMRAN SINGH SETHI, J. (ORAL)

The present petition has been filed under Section 439 Cr.P.C.
for the grant of regular bail to the petitioner in FIR No.92 dated
29.06.2020, under Sections 306 and 34 IPC and Section 3 of the
Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act,
1989, registered at Police Station Haryana, District Hoshiarpur.

Learned counsel for the petitioner submits that there are total
three accused in the FIR and the allegations against all the accused are
identical. Learned counsel for the petitioner further submits that one of
the co-accused, namely, Anoop Kumar, has been granted the benefit of
regular bail by this Court while deciding CRM-M-1157-2021 on
23.03.2021 (Annexure P-5) and other co-accused, namely, Rajan, has

been granted the benefit of anticipatory bail by this Court while deciding CRM-M-38166-2020 on 23.03.2021 (Annexure P-4). Learned counsel for the petitioner further submits that keeping in view the fact that the allegations against all the accused are similar, petitioner is also entitled for the concession of regular bail on the ground of parity.

Notice of motion.

Mr. Sandeep Singh Deol, Deputy Advocate General, Punjab, who has joined the proceedings through video conference, keeping in view the service of advance copy of petition, accepts notice on behalf of the respondent-State.

Learned State counsel conceded that the allegations against the petitioner and other co-accused are identical. It is further conceded that co-accused, namely, Anoop Kumar has already been granted the benefit of regular bail by this Court while deciding CRM-M-1157-2021 on 23.03.2021 and other co-accused, namely, Rajan has been granted the benefit of anticipatory bail while deciding CRM-M-38166-2020 on 23.03.2021.

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

The co-accused, namely, Anoop Kumar has been granted the benefit of regular bail by this Court while deciding CRM-M-1157-2021 on 23.03.2021 and the relevant order is as under: -

“The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail in FIR No.92 dated 29.06.2020 registered under Sections 360 and 34 IPC and Section 3 of

Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 at Police Station Haryana, District Hoshiarpur.

The petitioner is being prosecuted for having abetted the suicide of Pardeep Kumar.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case; the petitioner has been in custody since 30.06.2020; there is no other criminal case pending against the petitioner; co-accused Rajan against whom there are similar allegations as the petitioner has been granted anticipatory bail by this Court; even if the case of the prosecution is taken as the gospel truth, though vehemently denied, the same do not constitute “abetment” as defined under Section 107 IPC; report under Section 173 Cr.P.C. has already been filed and therefore, the petitioner is not in a position to influence the investigation and that the petitioner's trial which is yet to begin is likely to take a long time to conclude.

Learned State counsel opposes the grant of bail to the petitioner on the ground that the petitioner has abetted Pardeep Kumar's suicide.

Whether the allegations against the petitioner would come under the definition of “abetment” under the provisions of Section 107 IPC would be debated at the time of framing of charge and if charge is framed, during the petitioner's trial. However, the petitioner has been in custody since 30.06.2020; there is no other criminal case in which he is involved; co-accused Rajan against whom there are similar allegations as the petitioner has been granted anticipatory bail by this Court; report under Section 173 Cr.P.C. has already been filed and therefore, the petitioner is not in a position to influence the investigation and the petitioner's trial which is yet to begin is likely to take a long time to conclude especially in the present circumstances when the world is facing the Covid-19 pandemic.

Keeping in view the totality of the above facts, the present case is considered to be a fit one in which the petitioner be directed to be released on regular bail. Resultantly, subject to the satisfaction of the CJM/Duty Magistrate, Hoshiarpur, the petitioner

is directed to be released on bail.

It is clarified that the above observations have been made only for the limited purpose of deciding the present regular bail application and the same would not be construed to be an expression of opinion on the merits of the case.”

Once, it is conceded that the allegations against the petitioner is identical to that of co-accused, namely, Anoop Kumar, who has already been granted the benefit of regular bail by this Court, the petitioner has made out a case for the grant of regular bail on the ground of parity.

In view of the above facts, the petitioner be released on regular bail in this case subject to the satisfaction of the trial Court/Duty Magistrate concerned.

Learned counsel for the petitioner undertakes that petitioner will not influence the trial in any manner and in case of default of the above undertaking, the State/complainant will be at liberty to approach this Court for passing appropriate orders.

However, it is made clear that anything observed herein shall not be construed to be an expression of any opinion on the merits of the case.

(**HARSIMRAN SINGH SETHI**)
JUDGE

April 08, 2021
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Whether reasoned/speaking?	Yes
Whether reportable?	No