

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

**CRM-M-18572-2020
Date of decision: 08.07.2021**

Amit

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Rakesh Kumar Lathwal, Advocate
for the petitioner.

Mr. Deepak Kumar Grewal, DAG, Haryana.

(Through video conferencing)

ARVIND SINGH SANGWAN, J. (Oral)

This is the second petition that has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 111 dated 13.03.2018, registered under Sections 302, 120-B, 34 of the IPC and Sections 25, 27 of the Arms Act, 1959 at Police Station Kharkhoda, District Sonapat.

The first petition, bearing CRM-M-17336-2019, was dismissed as withdrawn on 30.09.2019.

Learned counsel for the petitioner submits that petitioner is in judicial custody for the last about 03 years and 04 months and he is not involved in any other case.

Learned counsel further submits that on on today, only one prosecution witness i.e. PW-1 Jyoti has been examined out of total 31

prosecution witnesses and it will take a long time in conclusion of trial.

On merits, learned counsel for the petitioner submits that the FIR was registered at the instance of complainant Satender, brother-in-law of deceased Rajesh Malik, with the allegations that one Jyoti, a Clerk of a Govt. College, told him that deceased had a scuffle one month age with the accused persons on a petty matter and, therefore, Jagmail, Akash, petitioner Amit, Jashan and Yogesh, in conspiracy with each other, committed the murder of Rajesh Malik.

Learned counsel further submits that the police later on recorded the statement of Jyoti (PW-1), who has stated that she believed that on 13.03.2018, due to a scuffle, Jagmail and his aforestated friends have fired a shot at Rajesh Malik as on that date, she had seen Jagmail carrying a pistol while running away from the college.

Learned counsel further submits that co-accused Akash has already been granted concession of regular bail, vide order dated 26.03.2019 passed in CRM-M-3834-2019 noticing the fact that the name of Akash has surfaced in the supplementary statement of said Jyoti and out of 31 prosecution witnesses, only 01 witness has been examined. It is further submitted that since there is no eyewitness, there is no possibility of influencing the witness in this case.

Learned counsel further submits that even another accused Jashan has already been granted concession of regular bail by this Court, vide order dated 22.05.2020 passed in CRM-M-48820-2019..

Reply, by way of affidavit of Superintendent of Police, Sonipat, has been filed explaining the allegations in the FIR as well as the

investigation carried out by the police. It is stated that as per statement of complainant, his sister Poonam was married with deceased Rajesh Malik and on the date of incident, when deceased reached his college, a fire shot was heard and a youngster was seen coming out of the college carrying a pistol in his hand, who was identified as Jagmail.

Considering the fact that petitioner was in long custody, a report was sought from the trial Court and in pursuance thereof, the Additional Sessions Judge, vide report dated 05.04.2021, has explained that charges in this case were framed on 21.08.2018 and on 11.12.2018, statement of witness Jyoti was recorded and thereafter, an application under Section 319 Cr.P.C. was moved by the prosecution, which remained pending for a considerable time and it was dismissed on 11.10.2019. Thereafter, one accused absented and after his arrest, the case was fixed for prosecution evidence and despite issuance ofailable warrants to prosecution witnesses, service could not be effected due to farmers' agitation and the case was adjourned and the same is still at the stage of recording prosecution evidence.

Learned State counsel files the custody certificate and submits that as on today, still only one witness i.e. PW-1 Jyoti has been examined and the case is fixed for 15.11.2021. As per custody certificate, the petitioner is in judicial custody for the last about 03 years, 03 months and 22 days and he is not involved in any other case.

After hearing learned counsel for the parties, without commenting upon the merits of the case, considering the long custody of the petitioner and similarly situated co-accused have already been granted

concession of regular bail as noticed above, the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaqa Magistrate, concerned.

08.07.2021

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No