

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

214

CRM-M-24682-2021

Date of Decision : December 16, 2021

ANSHUL

.....Petitioner

VERSUS

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present : Mr. Atul Lakhanpal, Sr. Advocate assisted by
Mr. Arjun Lakahnpal, Advocate
for the petitioner.

Mr. Ranvir Singh Arya, Addl. Advocate General, Haryana.

Mr. Jagmohan Ghumman, Advocate
for the complainant.

JASGURPREET SINGH PURI. J. (Oral)

The present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No.119 dated 13.3.2018 under Sections 302, 307, 34, 216, 120-B IPC and Section 25 of the Arms Act, Police Station Badshahpur, Gurugram.

Affidavit has been filed by the State which is taken on record.

Mr. Lakhanpal, learned Sr. counsel assisted by Mr. Arjun Lakahnpal, Advocate for the petitioner has submitted that in the present case the petitioner is in custody from 21.1.2019 which is almost 3 years and in the present case the challan against the petitioner was presented on 18.4.2019 and thereafter 5 PWs were also examined. However, thereafter

the challan was presented against one of the co-accused, namely, Karamjit in the month of March 2021 and now fresh charges have been framed and the trial would be started afresh and in the entire process, the trial has been delayed for no fault of the petitioner and he is facing incarceration for about 3 years. He has further submitted that the main accused in the present case was Narender @ Tillu and the allegation against the petitioner was that he was accompanying with the aforesaid Narinder @ Tillu and that he was already in custody in some other case and when brought on production warrants he had disclosed that he was also accompanying the aforesaid Narender @ Tillu and in this way, his name was nominated. He has further submitted that although there are some other cases against the petitioner but most of them pertained to Excise Act and out of these case he has already been acquitted in 5 cases and in all the remaining cases the petitioner is on bail. He has submitted that in view of the aforesaid factual position, the trial of the case would take long time especially when the petitioner was not at fault in the delay of the trial and, therefore, he may be considered for the grant of regular bail.

On the other hand, Mr. Arya, learned Addl. Advocate General, Haryana has submitted that the matter was serious in nature and as the petitioner is involved in the present case where one person had died and one more person was injured. He submitted that it is correct that the petitioner is in custody from 21.1.2019 which is almost 3 years and it is also correct that after the framing of the charges against the petitioner, 5 PWs were examined but thereafter when the challan was present against

the other co-accused and the trial has commenced afresh and now no PW has been examined thereafter. He has further submitted that the petitioner is involved in as much as in 17 cases. However, he has been acquitted in 5 of these cases and the remaining cases mostly pertained to the Excise Act. He has, therefore, opposed the grant of bail on the ground of seriousness and has also caused apprehension that in case the petitioner is released on bail then he may influence the material witnesses.

Mr. Jagmohan Ghumman, Advocate has caused appearance on behalf of the complainant. He has also opposed the grant of bail to the petitioner on the ground that in case he is released on bail, he is likely to influence the witnesses etc. and that since he was involved in serious offences, he may not be granted the concession of regular bail.

I have heard the learned counsels for the parties.

The petitioner is in custody for almost 3 years and as per the facts of the present case, his name was nominated on the basis of a disclosure statement made by him when he was produced by way of production warrants in some other case in which he was in custody and the disclosure statement was made in other case before the police officer. The main accused in the present case is Narinder @ Tillu. The involvement of the petitioner in the other FIRs out of which the petitioner has since been acquitted in 5 of them and in the remaining cases as per the learned counsel for the petitioner he is on bail cannot dis-entitle him for the grant of bail on this ground only. So far as the apprehension expressed by the learned State counsel that in case the petitioner is

released on bail then he may influence the witnesses and tamper with the evidence is concerned, the same seems to be mechanical in nature in view of the fact that there is nothing on record or in the arguments of the learned State counsel to substantiate as to on what basis such an opinion has been formed.

The long custody of the petitioner as well as the stage of the trial wherein *denovo* trial has started would itself become a good ground for grant of regular bail.

Therefore, considering the facts and circumstances of the present case, this Court deems it fit and proper to grant bail to the petitioner.

Consequently, the present petition is allowed. The petitioner is ordered to be released on bail on furnishing of bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

Needless to say that at any stage in case it is found that the petitioner has tried to influence any witness or has violated any of the conditions of bail then the State shall always be at liberty to file an appropriate application in this regard.

December 16, 2021

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(JASGURPREET SINGH PURI)
JUDGE

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