

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-27095-2021 (O&M)

Date of Decision: 20.07.2021

Kuldeep

....Petitioner(s)

Versus

State of Haryana

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Sushil Sheoran, Advocate, for the petitioner.

Mr. Naveen Singh Panwar, learned DAG, Haryana.

Through Video Conferencing

JASGURPREET SINGH PURI, J. (Oral)

The present application has been filed under Section 439 of Cr.P.C for grant of regular bail to the petitioner in FIR No.365 dated 24.10.2020, under Sections 147/148/149/323/302/427 of Indian Penal Code, 1860, registered at Police Station Siwani, District, Bhiwani.

Learned counsel for the petitioner has submitted that the petitioner was not named in the FIR and in fact the other co-accused have been named in the FIR. He has submitted that the deceased who was the complainant himself had named the other co-accused for having caused injuries to him alongwith 2-3 more persons but he never named the petitioner at any point of time. He has submitted that it is complainant-

deceased after receiving the injuries died after six days and even during that period he did not name the petitioner. Therefore, the name of the petitioner nominated only on the basis of disclosure statement of the other co-accused namely Rahul alias Bacchi and such disclosure statement of a co-accused was not admissible in evidence and in view of the fact that there is not other corroborative evidence to show the involvement of the petitioner. He has further submitted that the alleged recovery of danda would not become a ground for denial of bail because according to the learned counsel for the petitioner the danda was planted on the petitioner which could have been done from any person. He has submitted that the petitioner is in custody since 05.11.2020 which is almost 8½ months and the charges have already been framed in the present case but no prosecution witness has been examined. He has further submitted that the petitioner is not involved in any other case and has prayed for grant of regular bail to the petitioner.

On the other hand, Mr. Naveen Singh Panwar, learned Deputy Advocate General, Haryana has submitted that it is correct that the petitioner is in custody since 05.11.2020 and after completion of investigation the challan was presented and the charges have been framed in the present case.. He has submitted that it is also correct that the name of the petitioner has been cropped up in the disclosure statement of the co-accused namely Rahul alias Bacchi and the complainant-deceased did not take the name of the petitioner whereas he took the name of the other main co-accused. He has further opposed the grant of bail to the petitioner on the ground that the matter is serious in nature.

I have heard the learned counsel for the parties.

The name of the petitioner has been cropped up only on the basis of disclosure statement made by co-accused and the deceased who himself was the complainant did not name the petitioner in the period of six days after the injury and till his death. This Court does not wish to go into the merits of the case but only for the purpose of deciding the bail application this Court would consider the facts and circumstances of the present case especially the custody period which is about 8½ months. Furthermore, no recovery is to be effected from the petitioner and the petitioner is not involved in any other case. Furthermore, it is not the case of the State that in case the petitioner is released on bail then he may influence any witness or may tamper with any evidence or may flee from justice.

Therefore, without commenting on the merit of the case and considering the totality of circumstance, the present petition is allowed. The petitioner shall be released on regular bail subject to furnishing bail bonds/surety to the satisfaction of the learned trial Court/Duty Magistrate concerned.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

20.07.2021

rakesh

**(JASGURPREET SINGH PURI)
JUDGE**

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