

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

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CRM-M-32458-2021

Date of Decision : August 18, 2021

TARUN DIWAN ALIAS KALLU

.....Petitioner

VERSUS

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present : Mr. Himanshu Arora, Advocate
for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryana.

Through Video Conferencing

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.57 dated 23.1.2020 under Sections 148, 149, 323, 452 and 506 IPC (Section 307 IPC added later on), Police Station Sector-5, Gurugram, District Gurugram.

The learned counsel for the petitioner has submitted that it is a case where the name of the petitioner was nominated on the basis of the disclosure statement of the co-accused and as per the prosecution, it was further on the statement of the petitioner that a stick/Danda was recovered and from another co-accused, namely, Rakesh Bajaj, there was a recovery of wire like iron rod which was taken into the possession by the police. Learned counsel for the petitioner has further submitted that it is a second bail application which he has filed and the first bail

application was also dismissed on merit on 17.11.2020 and now since there has been a changed circumstances, the present petition would certainly be maintainable. He submitted that at the time when the earlier bail application was dismissed, the case was at the pre-charge stage and it was pending before the learned JMFC, Gurugram for appearance and the case was not even committed to the Court of Sessions and no charges were framed and no PW were examined at that point of time. He submitted that thereafter now, the case has been committed the Court of Sessions and 7 out of 29 prosecution witnesses have already been examined and in view of the changed circumstances, the present petition would be maintainable in law. He has further submitted that the custody period of the petitioner is from 6.8.2020 which is more than one year and the injured has already been recovered. He further submitted that on 16.8.2021, the other similarly situated co-accused, namely, Rakesh Bajaj, who was also nominated on the basis of the disclosure statement of the co-accused has been granted bail by a co-ordinate bench of this Court vide CRM-M-9047 of 2021. He has, therefore, prayed for the grant of regular bail to the petitioner.

On the other hand, Mr. Panwar, learned DAG, Haryana, has stated that it is correct that the custody of the petitioner is from 6.8.2020. He has also not disputed that after the dismissal of the earlier bail application, the matter was committed to the Court of Sessions and 7 out of 29 prosecution witnesses have already been examined. So far as the parity of the petitioner with the aforesaid Rakesh Bajaj, who has been granted bail by a co-ordinate bench of this Court is concerned, the

learned State counsel has not disputed the parity aspect. However, he has submitted that the remaining prosecution witnesses are yet to be examined.

I have heard the learned counsels for the parties.

The first bail application was dismissed on 17.11.2020 and thereafter the case has been committed to the Court of Sessions and 7 out of 29 prosecution witnesses have also been examined, and, therefore, the present petition would certainly be maintainable. The petitioner is in custody from 6.8.2020 and now on 16.08.2021, the other co-accused, namely, Rakesh Bajaj, who is at parity with the petitioner has been granted bail by this Court. Further-more, it is not a 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, considering the totality of the circumstances of the present case, the present petitioner shall be admitted to bail.

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

(JASGURPREET SINGH PURI)
JUDGE

August 18, 2021
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Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No