

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

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CRM-M-42146-2021

Date of Decision : October 13, 2021

VIKRAM

.....Petitioner

VERSUS

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present : Mr. Gaurav Gupta, Advocate
for the petitioner.

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

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.734 dated 16.12.2018 under Section 364 IPC and later on Sections 147/148/302/201 IPC and Section 3 of SC & ST Act added, Police Station City Palwal, District Palwal.

The learned counsel for the petitioner has submitted that in the present case the petitioner was not named in the FIR and rather the FIR was lodged under Section 346 IPC and later on the provision of Section 302 IPC was added. He submitted that so far as the present petitioner is concerned, his name was nominated on the basis of last seen theory and in fact the case has been falsely planted upon the petitioner. He has submitted that be that as it may the petitioner is in custody from 24.12.2018 which is about two years and 10 months and the petitioner has clean antecedents and he is not involved in any other case. He further

submitted that no recovery is to be effected from the petitioner and the challan was presented way back on 10.3.2019 after the completion of the investigation and till date no further progress has been made in the trial and no prosecution witness has been examined. He referred to Annexure P-3 by which this Court had directed that the proceedings before the trial Court shall remain stayed till the next date of hearing and thereafter the interim orders were made for continuation of the stay order. He submitted that this petition Annexure P-3 was filed by the wife of the deceased and in view of the interim orders passed by this Court, the trial is not commencing and the petitioner is being incarcerated for 2 years and 10 months.

On the other hand, Mr. Arya, learned Addl. A.G., Haryana has stated that so far as the custody period of the petitioner is concerned, the same is correct and it is also correct that after completion of investigation, the challan has already been presented on 10.3.2019 and in view of the stay orders passed by this Court, the trial has not commenced. He further submitted that it is also correct that the petitioner is not involved in any other case.

Mr. Johan Kumar, Advocate has caused appearance on behalf of the victim-Arti and has opposed the grant of bail on the ground that the matter was serious in nature. He has also not denied that the interim orders passed by this Court vide Annexure P-3 are in continuation and, therefore, the trial has not commenced after the passing of the orders vide Annexure P-3.

I have heard the learned counsels for the parties.

The custody period of the petitioner is not in dispute. It is not disputed that the investigation of the case is already complete and no further recovery is to be effected from the petitioner. It is also not disputed that the petitioner is not involved in any other case. The trial of the case has not commenced in view of the orders passed by this Court vide Annexure P-3. Furthermore, it is not the case of the State that in case the petitioner is released on bail then he may abscond or influence any witness or may tamper with any evidence.

Therefore, considering the totality of the circumstances of the present case, I deem 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/Duty Magistrate.

October 13, 2021
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(JASGURPREET SINGH PURI)
JUDGE

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