

S.No.112

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

Date of Decision:16.12.2021

1. CRM-M-39149-2020 (O&M)

Naveen @ Ninu

.....Petitioner

Vs.

State of Haryana

.....Respondent

2. CRM-M-31402-2020 (O&M)

Lalit @ Mohana

.....Petitioner

Vs.

State of Haryana

.....Respondent

CORAM:- HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Ms. Prity Sharma, Advocate for the
applicant- petitioner (in CRM-M-31402-2020).

Mr. Sanjeev Kadian, Advocate for the
petitioner (in CRM-M-39149-2020).

Mr. Neeraj Poswal, AAG, Haryana.

Mr. Rajat Mor, Advocate for the complainant.

AMOL RATTAN SINGH, J. (ORAL)

(1) CRM-M-39149-2020(O&M)

By this petition, filed under the provisions of Section 439 of the Cr.P.C., the petitioner seeks the concession of regular bail, upon FIR No.128, dated 02.06.2017, having been registered at Police Station Line Par, Bahadurgarh, District Jhajjar, alleging therein the commission of an offence punishable under Sections 302, 120-B, 34 IPC and Section 25 of the Arms Act, 1959.

As already recorded in the order dated 22.11.201, the petitioner is stated to have put in more than 04 years of actual custody.

Upon query to learned State Counsel, he, on instructions from SI Joginder Singh, submits that is indeed so.

Upon further query, learned State Counsel submits that the role attributed to the petitioner is of a conspirator in the commission of the offence, and that 07 prosecution witnesses out of 45 have been examined. He further submits that there is no other criminal case registered against him.

Learned counsel appearing for the complainant however opposes the prayer of the petitioner for grant of anticipatory bail, as does the learned State Counsel.

Having considered the matter, keeping in view the fact that the petitioner has been in custody for more than four years, seen with the stage of the trial, without making any comment on the actual merits of the case, the petition is allowed, with the petitioner directed to be enlarged on bail, upon his furnishing adequate bail and surety bonds to the satisfaction of the trial Court.

(2) CRM No.14563 of 2021 in
CRM-M-31402-2020(O&M)

Vide this application, the petitioner in the accompanying petition seeks advancement of the date of hearing, on the ground that the matter has remained pending before this Court for a long time and the mother of the petitioner is seriously ill and has been suffering. She is

unable to move or walk freely, the father of the petitioner has passed away long ago and his brother is mentally unstable and is under medication.

Notice in the application, with Neeraj Poswal, AAG, Haryana, accepting notice on behalf of the State and Mr. Rajat Mor, Advocate, accepting notice on behalf of the complainant and submitting that as a matter of fact, an application had been filed under Section 439 Cr.P.C before the learned trial Court seeking that the petitioner be admitted to interim bail on the ground that his mother is of ill health; but with the reply of the State having been filed thereto, the application itself had been withdrawn, thereby clearly showing that the petitioner's mother is not ill.

Though learned counsel for the petitioner submits that that application was not withdrawn for that reason, yet that issue is not being gone into by this Court in view of the fact that the petitioner is stated to be in custody for more than four years and the trial will take time to conclude as already noticed hereinabove in the context of the accompanying petition and consequently, this application is allowed and the date of hearing in the accompanying petition is advanced to today itself.

In view of the the aforesaid reasons, the application is allowed and the date of hearing in the accompanying petition is advanced to today.

CRM-M-31402 of 2020

By this petition, filed under the provisions of Section 439 of the Cr.P.C., the petitioner herein also seeks the concession of regular bail, in the context of the same FIR registered at Police Station Line Par, Bahadurgarh, District Jhajjar.

Learned counsel appearing for the complainant submits that

in fact this petition is not maintainable at all, the petitioner never having approached the trial Court seeking to be admitted to regular bail, other than the application filed by the petitioner seeking interim bail on the ground of the alleged ill health of his mother.

Learned counsel for the complainant would be correct to the extent that normally this Court would not entertain a petition filed under Section 438 Cr.P.C or Section 439 Cr.P.C at the first instance, (even though it is concurrent jurisdiction with the Sessions Court), unless the accused has approached the Sessions Court first; but keeping in view the fact that a similar petition filed by a co-accused, who had earlier approached the Sessions Court, has been allowed hereinabove simply on the ground of long custody, that contention of counsel for the complainant is not being accepted in the present case.

On the merits thereof, learned State Counsel as also learned counsel for the complainant submit that the petitioner's role is not identical to that of Naveen alias Neenu, as that person was alleged to be only a conspirator, with the petitioner herein not being only a conspirator but also a person who took one Surendra alias Satpal to the place of occurrence after getting the location of the deceased, and while Surendra alias Satpal shot the deceased (as alleged), the petitioner waited for him on a motor-cycle.

Learned counsel for the petitioner rebuts by contending that the aforesaid contention is only based on a disclosure statement allegedly made in police custody by the petitioner himself, which would have no evidentiary value.

Having considered the matter, only keeping in view the fact that the petitioner has been in custody for more than four years, seen with the stage of the trial, without making any comment on the actual merits of the case, the petition is allowed, with the petitioner directed to be enlarged on bail, upon his furnishing adequate bail and surety bonds to the satisfaction of the trial Court.

A photocopy of this order be placed on the file of connected case.

December 16, 2021
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(AMOL RATTAN SINGH)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No