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

**CRM-M-39877-2020 (O&M).
Decided on: November 30, 2021.**

Sandeep Kumar @ Tinku

.. Petitioner

VERSUS

State of Haryana

.. Respondent

*** * ***

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

*** * ***

**PRESENT Mr.Amrik Singh Kalra, Advocate,
 for the petitioner.**

Mr.Naveen Singh Panwar, DAG, Haryana.

JASGURPREET SINGH PURI, J. (ORAL)

The present petition has been filed under Section 439 of the Code of Criminal Procedure, seeking regular bail in FIR No.423 dated 24.11.2018, under Sections 396, 302, 307 and 120-B IPC and under Section 25 of the Arms Act, 1959, registered at Police Station Ambala City, District Ambala.

Learned counsel for the petitioner has submitted that in the present case the petitioner has been in custody since 30.11.2018 i.e. for the last 3 years and the petitioner has clean antecedents. He submitted that the petitioner was earlier involved in one case under Sections 323 and 325 IPC in

which he was acquitted. He further submitted that it is a case where the petitioner was arrested on the basis of suspicion on the ground that he was riding an Activa scooter and the same was caught in CCTV footage. He submitted that the petitioner is also running a jewellery shop in the same vicinity where the alleged incident had taken place and on the basis of doubt the petitioner was arrested. He further submitted that the complainant namely Bharat Bhushan and the eye-witness namely Manoj Awasthi while deposing before the learned trial Court during trial have turned hostile by stating that the persons present in the Court were not involved in that incident. He further submitted that other three co-accused namely Simranjit Singh @ Simmy, Gurvinder Singh @ Guri and Vivek Kumar Puri have been granted bail by this Court vide orders passed in CRM-M-40044-2019, CRM-M-37255-2020 and CRM-M-41259-2021, respectively. Learned counsel submitted that although all the other petitioners who have been granted bail were on disclosure statement but so far as present petition is concerned, he has been arrested purely on the basis of suspicion and considering his long custody of 3 years, he may be considered for the grant of regular bail.

On the other hand, learned state counsel has submitted that so far as custody of the petitioner is concerned, the same is correct and the petitioner is in custody for the last 3 years. He submitted that out of 37 witnesses cited by the prosecution, 11 have been examined and it is also correct that the petitioner is not involved in any other case except for one case as stated aforesaid in which the petitioner has already been acquitted. He has further submitted that the petitioner was the main accused and when he was arrested, he had disclosed the names of other persons and in this way other remaining co-accused were also arrested. Learned State counsel has not

disputed that the complainant and eye-witness have turned hostile. He, however, has opposed the grant of regular bail on the ground that the matter is serious in nature.

I have heard the learned counsel for the parties.

The custody period of 3 years is not in dispute. It is also not in dispute that material witnesses i.e. the complainant and eye-witnesses have been examined and they have turned hostile during trial. Three of the other accused as stated aforesaid have been granted bail by this Court. 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, considering the long custody of the petitioner, this Court deems it fit and proper to grant regular bail to the petitioner. Accordingly, the present petition is allowed. It is ordered that the petitioner shall be released on bail on furnishing bail bond/surety bond to the satisfaction of the 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 only for the purpose of decision of present petition.

Pending misc. application, if any, shall also stand disposed of accordingly.

November 30, 2021.
raj arora

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking / reasoned	Yes / No
Whether reportable	Yes / No