

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

228

CRM-M-3501 of 2022 (O&M)
Date of decision:19.07.2022

Sushil @ Rinku

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Arun Luthra, Advocate
for the petitioner.

Ms. Deepshikha Chauhan, AAG, Haryana.

SUVIR SEHGAL, J. (Oral)

This is the second petition filed under Section 439 Cr.P.C., seeking grant of regular bail to the petitioner in case FIR No.159 dated 04.10.2019 registered under Sections 323, 34, 506 of Indian Penal Code, 1860 (for short "IPC"), however, Section 302 IPC was added later on, at Police Station Sadar, Kaithal (Annexure P-1).

Case of the prosecution is that FIR (Annexure P-1), has been registered on the statement of Ajay on the allegation that when he alongwith Gurmeet and his uncle Balwan, were going in a street, they were attacked by Dalbir, Rinku (present petitioner) and Aman. FIR was initially registered under Sections 323, 34, 506 IPC. However, after Gurmeet expired, Section 302, IPC was added. During investigation, Sections 148, 149 IPC were also added and Section 34 IPC was deleted.

Counsel for the petitioner submits that it is a case of version and cross-version and DDR (Annexure P-3) was registered at the instance of co-accused, Dalbir, which was not investigated. By referring to MLR (Annexures P-4 to P-6), he submits that family members of the petitioner were also injured in the occurrence. Still further, he submits that both the other co-accused have been released on bail by this Court. He submits that although first petition (CRM-M-32036-2021) preferred by the petitioner was withdrawn on 16.08.2021, but there has been hardly any progress in the trial thereafter. Counsel asserts that the petitioner, who is in custody since 22.10.2019, deserves to be released on bail as he enjoys a clean past and the trial is likely to take time to conclude.

Per contra, State counsel, upon instructions from ASI Ramniwas and by making a reference to the reply filed by way of an affidavit of Deputy Superintendent of Police, Headquarters, Kaithal, has opposed the petition and has submitted that cause of death of Gurmeet is injury inflicted on his head by the petitioner. She submits that out of total 22 prosecution witnesses, 02 official witnesses have been examined and examination-in-chief of Ajay, complainant, has been recorded.

Having considered the submissions made by counsel for the parties, this Court is *prima facie* of the view that complicity of the petitioner in the crime would remain subject matter of debate before the Trial Court. The petitioner, who has been in custody for the last more than 02 years and 08 months, would be entitled to be released on bail during pendency of the trial as prosecution has to examine 19 more witnesses and there is little

possibility of the trial being concluded in the near future.

Without delving into the merits or demerits of the arguments addressed by counsel for the parties, petition is allowed and the petitioner is ordered to be released on bail on furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

It is clarified that any observation made hereinabove shall not be construed to be an expression of opinion on the merits of the case.

July 19, 2022

savita

(SUVIR SEHGAL)
JUDGE

<i>Whether Speaking/Reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>