

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

CRM-M-3808 of 2022(O&M)

Date of Decision: 29.09.2022

Vikas @ Kalu

...Petitioner

Versus

State of Haryana

...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

**Argued by:- Mr. Raman Chawla, Advocate
For the petitioner.**

Mr. Naveen Kumar Sheoran, DAG Haryana.

**Mr. Jitender K. Sehrawat, Advocate
For the complainant.**

KARAMJIT SINGH, J.

The petitioner has approached this Court seeking grant of regular bail in a case having FIR No.293 dated 01.08.2020 registered under Sections 148, 149, 302, 323, 452, 506 IPC and Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act at Police Station Adampur, District Hisar, to which Section 325 IPC was added lateron.

The counsel for the petitioner submits that the petitioner was not named in the FIR and was nominated as accused on the basis of disclosure made by co-accused and he is in custody for the last about 01 year and 06 months. The counsel for the petitioner further contends that no weapon or incriminating article was recovered from the possession of the petitioner. The counsel for the petitioner further contends that during trial,

complainant-Vinod Kumar appeared in the witness-box and was examined-in-chief at which stage the prosecution moved an application under Section 319 Cr.P.C. for summoning of two other persons as additional accused. The counsel for the petitioner further submits that even in the said examination-in-chief, the complainant has not named the petitioner in any manner. The counsel for the petitioner further submits that it will take considerable time for the trial to terminate and as such prayer is made that petitioner be released on regular bail. Counsel for the petitioner submits that similarly situated co-accused Monu and Rakesh are granted benefit of regular bail vide order dated 01.08.2022 in CRM-M-26210 of 2021 and CRM-M-14093 of 2022 respectively.

The present petition is opposed by the State counsel and counsel for the complainant, both of whom submitted that the petitioner is facing trial in a case relating to murder of Birbal and his son Suresh. At the time of the incident, complainant-Vinod also sustained injuries at the hands of accused persons. The State counsel on instructions from investigating officer has not disputed the fact that the petitioner was not named in the FIR and was nominated as accused on the basis of disclosure made by co-accused Raghbir and that the petitioner is in custody for about 01 year and 06 months. The State counsel has not disputed the fact that co-accused Monu and Rakesh who were also not named in the FIR have been granted concession of bail by this Court vide orders dated 01.08.2022.

I have considered the submissions made by counsel for the petitioner as well as by State counsel and counsel for complainant.

The petitioner who was not named in the FIR is in custody for the last about 01 year and 06 months and is having no criminal antecedents. During trial complainant-Vinod was examined-in-chief and copy of the same has been placed on file. Even in the said statement complainant Vinod has not specifically named the petitioner and even no specific act has been attributed to the petitioner in the said deposition of the complainant. Further, similarly situated co-accused Monu and Rakesh have already been granted regular bail by this Court vide separate orders dated 01.08.2022. It will take considerable time for the trial to conclude. In the given circumstances mentioned above, no fruitful purpose is going to be served even if the petitioner is kept in judicial custody for indefinite period.

Thus without commenting on the merits of the case, the petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail and surety bonds to the satisfaction of the trial Court/ CJM/ Duty Magistrate concerned.

29.09.2022

Jiten

**(KARAMJIT SINGH)
JUDGE****Whether speaking/reasoned : Yes/No****Whether reportable : Yes/No**