

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-17390-2022 (O&M)

Date of Decision: 27.09.2022

Irshad

....Petitioner(s)

Versus

State of Haryana

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Saifuddin Shams, Advocate, for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryana.

JASGURPREET SINGH PURI, J. (Oral)

The present petition has been filed under Section 439 Cr.P.C for grant of regular bail to the petitioner in case bearing FIR No. 254 dated 19.07.2020, under Section 11 of PCA Act, Sections 5, 13 (2), 17 of HGS & GS Act and Sections 120-B, 307 IPC, registered at Police Station Hodal, District Palwal.

Learned counsel for the petitioner has submitted that the petitioner is in custody from 19.07.2020 which is more than 2 years and 2 months. He submitted that the trial of the case is going at a slow pace and even otherwise also 7 witnesses have already been examined. He further submitted that the allegations against the petitioner were that he alongwith other co-accused was travelling in a canter which contained 16 animals and on seeing the police party, the driver of the canter broke the barricade and injured the policeman as well and that was the reason as to why Section 307 IPC was added. He further submitted that firstly the petitioner was not the

driver of the canter and secondly, as per MLR Annexure P-5, the injuries do not suggest that it was a case which could fall under Section 307 IPC. He submitted that the petitioner was involved in 7 more cases pertaining to theft but out of the aforesaid 7 cases, the petitioner has already been acquitted in 4 cases and in the remaining cases, he is an undertrial. He submitted that it was only because of his involvement in the earlier cases that the petitioner has been falsely implicated in the present case. He further submitted that the other co-accused namely Aasif Khan who is also named in the FIR alongwith the present petitioner has been granted regular bail by the learned trial Court vide order dated 09.08.2022 on the ground that now 7 witnesses have already been examined and considering the custody of the accused, he was granted bail. He further submitted that apart from the same the wife of the petitioner is suffering brain disease regarding which he has also annexed the medical record Annexure P-2 with the present petition. He submitted that considering the aforesaid facts and circumstances, the petitioner may be considered for the grant of regular bail.

On the other hand, Mr. Naveen Singh Panwar, learned Deputy Advocate General, Haryana has submitted that it is correct that the petitioner is in custody from 19.07.2020 which is more than 2 years and 7 witnesses have been examined. He submitted that it is also correct that the other co-accused namely Aasif Khan has been granted regular bail by the learned trial Court. However, one of the other co-accused namely Sunny has been declared as P.O. He has opposed the grant of regular bail on the ground that the petitioner is involved in as many as 7 more cases pertaining to theft.

I have heard the learned counsel for the parties.

It is a case where the petitioner has faced incarceration for

about 2 years and 2 months. Seven witnesses have already been examined. As per the learned counsel for the parties, although there are 7 cases in which the petitioner was involved but in 4 cases he has already been acquitted and in the remaining 3 cases pertaining to theft, he is an undertrial. Learned counsel for the petitioner has also specifically stated that the wife of the petitioner is medically unfit in view of her brain disease and he has 5 minor children to feed. The role of the petitioner is yet to be determined at the time of trial especially with regard to Section 307 IPC. The fact that the petitioner is still facing trial in 3 other cases pertaining to Section 379 IPC would not disentitle the petitioner for grant of regular bail particularly in view of the fact that the petitioner has already faced incarceration for about 2 years and 2 months and circumstances of the family of the petitioner as stated by the learned counsel for the petitioner in this regard.

In view of the aforesaid facts and circumstances, this Court deems it fit and proper to grant regular bail to the petitioner.

Consequently, the present petition is allowed. The petitioner shall be released on regular bail subject to furnishing bail bonds/surety to the satisfaction of the learned 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 for the purpose of deciding the present petition only.

27.09.2022

rakesh

Whether speaking
Whether reportable

(JASGURPREET SINGH PURI)
JUDGE

: Yes/No
: Yes/No