

208

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

CRM-M-17544-2020

Date of Decision: 15.07.2022

Parveen @ Moni

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Aman Pal, Advocate,
for the petitioner.

Mr. Naveen S. Panwar, DAG, Haryana.

Mr. Amandeep Singh Sidhu, Advocate for
Mr. T.P. Singh, Advocate,
for the complainant.

JASGURPREET SINGH PURI, J. (ORAL)

The present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case bearing FIR No.149 dated 21.03.2019, under Sections 302, 307 & 34 of the IPC and Section 25 of the Arms Act, registered at Police Station Samalkha, District Panipat.

It has been submitted by learned counsel for the petitioner that the petitioner is in custody since 26.03.2019 which is more than 3 years and 3 months. The charges in the present case were framed on 25.09.2019 and thereafter, number of adjournments were granted by the learned trial Court and for the number of times the witnesses were summoned but as of date

only 5 out of 21 witnesses have been examined. He further submitted that the complainant has already been examined, however, one of the eye-witness, namely, Anil was summoned for a number of times but initially he although was present in the Court but was not examined but thereafter, he did not turn up for deposing before the Court. He also submitted that initially the delay was caused because an application was moved under Section 319 of the Cr.P.C. for summoning of an additional accused, and therefore, no PW was examined but thereafter, the said application was also dismissed on 10.02.2021 and thereafter, for about 11 times the matter was adjourned for examination of PWs but only the complainant and official witnesses were examined and the said Anil did not come forward for deposing. He further submitted that be that as it may, the petitioner has already faced incarceration for more than 3 years and 3 months and the trial is being delayed at the hands of prosecution. He also submitted that even otherwise also as per the prosecution story, the role of the petitioner was that he had caught hold the deceased while the other co-accused, namely, Vijay had inflicted injuries upon him. He further submitted that the petitioner has got clean antecedents and is not involved in any other case and it was only on the basis of hearsay that the present FIR has been lodged against him.

On the other hand, Mr. Naveen S. Panwar, learned DAG, Haryana has submitted that it is correct that the petitioner is in custody since 26.03.2019, which is more than 3 years and 3 months and 5 out of 21 witnesses have been examined including the complainant. He further submitted that during investigation, it was found that the petitioner had

caught hold the deceased.

Mr. Amandeep Singh Sidhu, Advocate for Mr. T.P. Singh, Advocate has appeared on behalf of the complainant and has opposed the grant of regular bail to the petitioner. He has submitted that the petitioner has committed serious offence, therefore, he could not be granted the benefit of bail.

I have heard the learned counsel for the parties.

The petitioner is in custody since 26.03.2019, which is more than 3 years and 3 months and the charges were framed on 25.09.2019 and thereafter, only 5 out of 21 witnesses have been examined including the complainant. The learned counsel for the petitioner during the course of arguments has referred the zimni orders after the framing of charges to show that earlier an application was moved by the prosecution under Section 319 of the Cr.P.C. for summoning of an additional accused but the same was eventually dismissed and for some time the matter was adjourned due to Covid-19 but thereafter, for more than 10 times the case was posted for examination of prosecution witness but the eye-witness, namely, Anil did not come forward for deposition. The petitioner is not involved in any other case as per the learned counsel for the parties. It appears that the delay has been caused at the hands of the prosecution and the trial of the case may take long time.

Therefore, considering the aforesaid totality of the circumstances especially the long custody of the petitioner and also the fact that it has not been argued by the learned State counsel nor it is the case of the State that in case the petitioner is released on bail then he may abscond

or flee from justice or may influence any witness, this Court is of the view that the petitioner deserves the concession of regular bail.

Consequently, the present petition is allowed and the petitioner is ordered to be released on bail on furnishing bail bond/surety bond to the satisfaction of the trial Court/Duty Magistrate concerned, if not required in any other case.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of present petition.

15.07.2022

Bhumika

(JASGURPREET SINGH PURI)
JUDGE

- | | |
|-------------------------------|--------|
| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |