

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-22728 of 2022

Date of Decision: 06.09.2022

Shubham Arora @ Mota

....Petitioner

Versus

State of Punjab

.....Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Bipin Ghai, Senior Advocate, with
Mr. P. S. Bindra, Advocate
for the petitioner.

Mr. Kunal Vinayak AAG, Punjab

Mr. Suneet Pal Singh Aulakh, Advocate,
for the complainant.

JASGURPREET SINGH PURI, J. (Oral)

The present petition is a second petition filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No.41 dated 12.02.2020, under Sections 307, 323, 324, 325, 326, 506, 148, 149 of the IPC (Section 201 added later on), registered at Police Station Moti Nagar, District Ludhiana.

The learned senior counsel for the petitioner has submitted that the petitioner is in custody from 22.02.2020, i.e. approximately 2 years and 7 months. He submitted that it is the case where earlier also the petitioner filed a petition for grant of regular bail alongwith other co-accused and the same was taken up alongwith the bail petition of other co-accused and vide Annexure P-4 bail was

granted to the other co-accused but so far as the present petitioner is concerned, he had withdrawn the petition on 25.11.2021. He further submitted that at that time the charges were framed only a month ago but now about one year has elapsed and no prosecution witness has been examined with the result that the petitioner has faced incarceration for about two years and seven months. It is submitted that the reason as to why the prosecution witnesses were not examined is that the complainant himself and the injured are both involved in more than seven cases and the injured has already been declared proclaimed offender and the complainant is also absconding. He further submitted that although the other cases are pending against the petitioner but considering the facts and circumstances, it cannot become a ground for denial of bail to the petitioner.

On the other hand, learned State counsel appearing on behalf of the State of Punjab has stated that so far as the custody of the petitioner is concerned, the same is correct and it is also correct that the charges were framed in the present case on 17.09.2021 but no prosecution witness has been examined till date. He has submitted that it is also correct that the complainant and the injured are involved in number of cases and one of the injured namely Puneet Bains has been declared proclaimed offender in some other case and that is the reason as to why he is not coming forward for deposing before the Court. He has however opposed the grant of regular bail to the petitioner on the grounds that the grievous injuries were received by one of the injured.

Mr. Suneet Pal Singh Aulakh, Advocate, appearing for the complainant has also opposed the grant of bail on the ground that grievous injuries were received and the petitioner was the main accused who had inflicted

injuries upon the injured.

I have heard the learned counsel for the parties.

It is the case of the petitioner that he is in custody for two years and seven months. Although the petitioner had earlier filed an application for grant of bail and the same was taken up for hearing alongwith the other co-accused. The other co-accused were granted bail by this Court vide Annexure P-4 but the petitioner had withdrawn on 25.11.2021 and the charges in the present case were framed on 17.09.2021. However, now the learned senior counsel for the petitioner has brought to the notice of this Court that almost one year after framing of the charge, no prosecution witness has been examined and the complainant and the victim are on the run since they are involved in many other cases and in this way the trial of the case may take long time.

This Court is of the view that in view of the aforesaid facts and circumstances, the second bail petition filed by the petitioner is maintainable. Furthermore, it is not the case of the State that in case the petitioner is released on bail, then he may abscond from justice or influence any witness and tamper with evidence.

Therefore, considering the aforesaid totality and circumstances of the present case and especially that the petitioner has already remained in custody for about 2 years and 7 months and the trial of the case is not commencing and not a single witness has been examined till date, this Court is of the view that the petitioner deserves the concession of regular bail.

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
expresion of opinion on merits of the case and is only meant for the purpose of
decision of present petition.

(JASGURPREET SINGH PURI)
JUDGE

September 06, 2022
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Whether speaking	:	Yes/No
Whether reportable	:	Yes/No