

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-29968-2021

Date of decision : 24.08.2022

Pardeep @ Poppi

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Ramnish Puri, Advocate
for the petitioner.

Mr.Praveen Bhadu, AAG, Haryana.

VIKAS BAHL, J.(ORAL)

This is a first petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR no.216 dated 28.04.2018 registered under Sections 302, 404, 149, 120-B IPC and Section 25,54,59 of the Arms Act at Police Station Sampla, District Rohtak.

Learned counsel for the petitioner has submitted that the petitioner has been in custody since 13.05.2018 i.e. (4 years 3 months and 10 days) and there are total 43 witnesses, out of whom, none have been examined and thus, the trial is likely to take time. It is further submitted that in the present case, there is no direct eye witness and as per the complainant, she has stated that she was sitting in a car close to the place of occurrence in which she was travelling along with her husband when several persons came in another car and hit their car and fired at them then she hid herself in the car and her husband tried to run towards the fields and

able to see the accused persons but has stated that she is quite sure that petitioner along with 19 named persons had committed the murder of her husband. It is submitted that in total there are 25 accused and against 16 accused, challan has been presented. It is further submitted that as per the prosecution case, it has not been mentioned as to who had specifically fired the fatal shots and 10 co-accused of the petitioner including co-accused Vikas @ Bagga, who is also named in the FIR and from whom also recovery of countrymade firearm has been effected, has been granted the concession of regular bail. It is submitted that Vikas @ Bagga has been granted the said concession by a co-ordinate Bench of this Court vide order dated 28.05.2020 passed in CRM-M-10890 of 2020 when his custody was slightly more than 2 years, whereas, the custody period of the present petitioner is much higher i.e. 4 years and 2 months approximately. It is further submitted that Sombir, from whom two guns of .12 bore and two cartridges, one of which was live and one was fired, and one Scorpio car were recovered, has been granted the concession of regular bail vide order dated 03.08.2022 passed by this Court in CRM-M-33065-2022.

Learned State counsel, on the other hand, has opposed the present petition for the grant of regular bail to the petitioner and has submitted that from the petitioner, country made pistol W4 of 7.65 mm bore has been recovered and and as per the FSL report, one of the bullets recovered from the body of the deceased has also been fired from a 7.65 mm bore pistol.

This Court has heard the learned counsel for the parties and has perused the paper-book.

The petitioner has been in custody since 13.05.2018 i.e. (4

years 3 months and 10 days) and investigation of the case is complete and challan has been presented and there are total 43 witnesses, out of whom, none have been examined and thus, the trial is likely to take time. There is no direct eye witness in the present case. The complainant, who is the wife of the deceased, has named several persons including the present petitioner in the FIR as the persons who, according to her, were the persons who have murdered her husband. Ten co-accused of the petitioner have already been granted the concession of regular bail by a coordinate Bench of this Court. Even, co-accused Vikas @ Bagga has been granted the concession of regular bail by a coordinate Bench of this Court vide order dated 28.05.2020 passed in CRM-M-10890-2020 from whom recovery of countrymade firearm was effected and was also named in the FIR. Although, as stated by the learned State counsel, the recovery effected from the petitioner is higher than the recovery effected from the said co-accused Vikas @ Bagga but the custody of the present petitioner has exceeded 4 years and 3 months, whereas, the co-accused Vikas @ Bagga was granted the concession of bail when his custody was slightly more than a period of two years. Even Sombir, from whom the recovery of two guns of .12 bore and two cartridges one of which was a live cartidge and one, which had been fired along with, one Scropio car, had been effected, has also been granted the concession of regular bail vide order dated 03.08.2022 passed in CRM-M-33065-2022.

Keeping in view the above said facts and circumstances, the custody of the petitioner and also the fact that the trial has not made any substantial progress, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail / surety bonds to the satisfaction of the concerned trial Court/ Duty Magistrate and subject to him

not being required in any other case.

However, it is made clear that in case, any act is done by the petitioner to threaten or influence the complainant or any of the witnesses, then it would be open to the State to move an application for cancellation of bail granted to the petitioner.

Nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

(VIKAS BAHL)
JUDGE

August 24, 2022
Davinder Kumar

Whether speaking / reasoned	Yes/No
Whether reportable	Yes/No