

225

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CRM-M-26316-2022  
Date of Decision: 04.07.2022

Balkar Singh

....Petitioner(s)

Versus

State of Haryana

.....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI**

Present: Mr. Y.S. Rathore, Advocate, for the petitioner.

Ms. Shivani Sharma, Assistant Advocate General, Haryana.

Ms. Pallavi Babbar, Advocate, for the complainant.

\*\*\*\*

**JASGURPREET SINGH PURI, J. (Oral)**

The present is a third petition filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No. 109 dated 22.06.2019, under Sections 148, 149, 302 IPC (Sections 341 and 120-B IPC and Section 3 of SC/ST Act, 1989 (Amendment 2015) added later on), registered at Police Station Kaithal Sadar, District Kaithal.

The first bail application was filed in CRM-M-24357-2020 and the same was dismissed qua the petitioner on 04.01.2021 vide Annexure P-3. Thereafter, the petitioner had filed an application for grant of interim bail in CRM-M-47524-2021 and the petitioner was granted interim bail vide Annexure P-4 for a period of three months on medical ground since the petitioner was having accute liver disease and he was referred to the higher

centre of the PGI, Chandigarh/AIIMS/GB Pant, Delhi. As per the learned counsel for the petitioner, the petitioner had thereafter surrendered well in time before the jail authorities. This fact has also not been disputed by the learned State counsel.

The learned counsel for the petitioner has submitted that the petitioner is in custody since 24.06.2019 which is about 3 years. He further submitted that when the earlier bail application was filed which was dismissed because the prosecution witnesses were not examined and now three material prosecution witnesses have been examined including the complainant and no other material witness is left. He further submitted that in view of the changed circumstance he may be considered for the grant of regular bail on the ground of long custody i.e approximately 3 years and also on the medical grounds. He further submitted that after the petitioner was granted interim bail, he was treated for liver cirrhosis at PGI, Chandigarh and he was also referred to AIIMS, Delhi but he got his treatment from PGI, Rohtak and thereafter his medical condition is still the same, although he is on medicines. He further submitted that in view of the aforesaid facts and circumstances, he may be considered for the grant of regular bail.

On the other hand, Ms. Shivani Sharma, learned Assistant Advocate General, Haryana has submitted that it is correct that the petitioner is in custody for approximately 3 years, out of which, he was granted interim bail for a period of 3 months and he thereafter surrendered before the jail authorities well in time. She further submitted that it is also correct that the petitioner has liver disease problem which is being treated from PGI, Rohtak and he is still on medicines. She has however submitted that

the name of the petitioner was nominated on the basis of the statement made by the complainant and, therefore, the petitioner is not entitled for the grant of regular bail.

However, the learned counsel for the petitioner has further submitted that in fact the similarly situated co-accused namely Surender has been granted regular bail by this Court vide Annexure P-7. He further submitted that the name of the aforesaid co-accused was nominated on the basis of the supplementary statement and the other co-accused namely Bhulla Ram has also been granted regular bail by the learned trial Court. He further submitted that the case of the petitioner is at parity with the aforesaid Surender and on this ground also, he may be considered for the grant of regular bail.

Ms. Pallavi Babbar, learned counsel has appeared on behalf of the complainant and has opposed the grant of regular bail to the petitioner on the ground that the offence in the present case was pertaining to Section 302 IPC and, therefore, the petitioner does not deserve the concession of regular bail.

I have heard the learned counsel for the parties.

The petitioner has faced incarceration for about 3 years. Earlier he was granted interim bail on medical ground due to his liver disease and thereafter, as per the learned counsel for the parties, he had surrendered before the jail authorities well in time. As per the report of the doctors including that of PGI, Chandigarh attached with the present petition, the petitioner is suffering from liver disease and even at one point of time, he was referred to higher centre of PGI, Chandigarh/AIIMS/ GB Pant, Delhi by the PGI, Rohtak. Three material witnesses have also been examined

after the dismissal of the earlier application by this Court. Apart from the same, it is not the case of the State that in case the petitioner is released on bail, then he may abscond or he may influence any witness or may tamper with evidence.

Therefore, considering the totality and circumstances of the present case especially the long incarceration of the petitioner which is approximately 3 years and the medical condition of the petitioner as well as the fact that three material witnesses have already been examined, this Court is of the considered view that the petitioner deserves the grant 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 expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

**04.07.2022**

rakesh

**(JASGURPREET SINGH PURI)  
JUDGE**

|                    |   |        |
|--------------------|---|--------|
| Whether speaking   | : | Yes/No |
| Whether reportable | : | Yes/No |