

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

227

CRM-M-29838-2022

Date of Decision : **September 12, 2022**

RAJESH KUMAR ALIAS BANTA

.....Petitioner

VERSUS

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present : Mr.Arnab Sood , Advocate
for the petitioner.

Mr. Kunal Vinayak, AAG, Punjab.

JASGURPREET SINGH PURI. J. (Oral)

The present is a third petition filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No.120 dated 7.9.2017 under Sections 302, 148, 149, 120-B IPC and Sections 25-54-59 of Arms Act, registered at Police Station Mahilpur, District Hoshiarpur.

The learned counsel for the petitioner has submitted that the first bail application was withdrawn by him and thereafter, the second bail application was dismissed vide Annexure P-8 on 26.8.2020 which is 2 years back. He submitted that in view of the aforesaid position, the third bail application would be maintainable.

It has been submitted by the learned counsel for the petitioner that the petitioner is in custody from 31.10.2017 and he has undergone 4 years, 10 months and 7 days and custody period is being calculated in view of his involvement in some other cases as well. He

further submitted that it is a case where after the commencement of the trial, the material witnesses have already been examined and as per the allegations contained in the FIR itself against the petitioner and the other co-accused are that they had fired upon the victim who had died but this case was planted against the petitioner and to substantiate his case, he has submitted that during the trial when the material witness, namely, Amandeep Kumar @ Aman, who is also the complainant stepped into the witness box then he did not support the prosecution version and rather did not identify the accused persons present in the Court by stating that they did not give any statement to the police and thereafter, he was declared hostile. Apart from the same, the another material witness, namely, Darshan Singh who is father of the deceased also did not support the prosecution version and he was also declared hostile. He submitted that be that as it may, the petitioner has faced incarceration for 4 years, 10 months and 7 days and the trial of the case may take long time and, therefore, he may be considered for the grant of regular bail. He also referred to an order vide Annexure P-5 in CRM-M-51910-2021 where similarly situated accused, namely, Lovepreet Singh @ Laddi who is at parity with the present petitioner has been granted bail by this Court.

On the other hand, the learned State counsel has filed the custody certificate in the Court today and as per the same, the petitioner has undergone 4 years, 10 months and 7 days in custody. The learned State counsel has further submitted that it is correct that the petitioner is at parity with the aforesaid co-accused, namely, Lovepreet Singh @ Laddi who has been granted bail by this Court vide Annexure P-5.

I have heard the learned counsels for the parties.

The petitioner has faced incarceration for 4 years, 10 months and 7 days as per the learned counsels for the parties and the custody certificate. The other similarly situated co-accused has been granted bail by this Court vide Annexure P-5. As per the learned counsels for the parties, the material witnesses including the complainant and the father of the complainant have not supported the prosecution version at the time of trial and have been declared hostile.

Therefore, considering the aforesaid facts and circumstances of the present case and especially the long custody of the petitioner which is 4 years 10 months and 7 days, this Court deems it fit and proper to grant bail to the petitioner.

Consequently, the petition is allowed. The petitioner is ordered to be released on bail on furnishing of bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

However, anything observed here-in-above shall have no effect on the merits of the case and is meant for deciding the present petition only.

(JASGURPREET SINGH PURI)
JUDGE

September 12, 2022

ajay-1

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No