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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-31699-2022(O&M)

Date of Decision: 25.08.2022

Anup Kumar

....Petitioner(s)

Versus

State of Punjab

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Tanvir S. Grewal, Advocate, for the petitioner.

Mr. Kunal Viyanak, AAG, Punjab.

Mr. Rai Singh Chauhan, Advocate with
Mr. Rohit Sapehiya, Advocate and
Ms. Deepika Chauhan, 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 the grant of regular bail to the petitioner in FIR No. 131 dated 16.09.2020, under Sections 302, 307, 506, 323 IPC (Section 302 IPC added later on and Section 34 IPC deleted), registered at Police Station Sadar Abohar, District Fazilka, Punjab.

It has been submitted by the learned counsel for the petitioner that the petitioner is in custody from 19.09.2020 which is almost 2 years. He further submitted that investigation of the case has been completed and challan has been presented before the competent Court and thereafter, the charges were also framed. He further submitted that out of total 26

witnesses, 3 witnesses have already been examined including the complainant and the doctor. He further submitted that it is a case where the allegations against the petitioner were that there was a family dispute among the brothers and he had killed his own brother by running over a tractor over him. He further submitted that as per the allegations when the deceased was coming from a kacha rasta, then the petitioner who was driving a tractor and there were other co-accused on the tractor as well and they had come down from the tractor and forced the deceased in front of the tractor and thereafter, he died since the petitioner had run over the deceased person. He further submitted that all the other five accused were exonerated by the police during the course of investigation but thereafter on an application being moved by the prosecution under Section 319 Cr.P.C, they were summoned by the Court and they have now been granted bail. He further submitted that be that as it may, the petitioner has already suffered incarceration for about 2 years and no recovery is to be effected from the petitioner. Apart from the same, the entire prosecution story is dependent upon video clipping which would show that it was a case of a pure accident and there was no deliberate act on the part of the petitioner because the hair of the complainant got entangled with the wheel of a tractor and as a result of the same, the deceased came in front of the tractor. He further submitted that it is yet to be seen at the time of trial as to whether it was a case of deliberate act on the part of the petitioner or it was a case of an accident and considering the custody of the petitioner, he may be considered for the grant of regular bail.

On the other hand, Mr. Kunal Vinayak, learned Assistant Advocate General, Punjab has submitted that it is correct that petitioner is

in custody from 19.09.2020 and three witnesses have already been examined.

Mr. Rai Singh Chauhan, learned counsel appearing on behalf of the complainant has opposed the grant of regular bail to the petitioner on the ground that it is a case of where one brother has killed another brother and therefore, the matter was serious in nature.

I have heard the learned counsel for the parties.

The petitioner is in custody from 19.09.2020 which is almost two years. The investigation of the case has been completed and no recovery is to be effected from the petitioner as per the learned counsel for the parties. Three material witnesses have already been examined including the complainant. The argument raised by the learned counsel for the petitioner that it is yet to be seen at the time of trial as to whether it was case of intentional killing of the deceased or it was case of an accident does carry weight. Furthermore, it is not the case of the State that in case the petitioner is released on bail, then he may influence any witness or may tamper with evidence or may flee from justice.

In view of the aforesaid facts and circumstances and especially considering the fact the petitioner is in custody for about 2 years and complainant has already been examined in the present case, this Court is of the view that the petitioner is entitled for 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.

25.08.2022

rakesh

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking	:	Yes/No
Whether reportable	:	Yes/No