

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

CRM No.M-32136 of 2022 (O&M)
Date of Decision: November 30, 2022

Naresh Kumar

...Petitioner

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Abhimanyu Singh, Advocate
for the petitioner.

Ms.Ambika Luthra, Addl. Advocate General, Haryana
for the respondent-State.

Mr.J.S.Hooda, Advocate
for the complainant.

ARCHANA PURI, J.

This is fourth petition under Section 439 Cr.P.C. for grant of regular bail filed by the petitioner in case FIR No.758 dated 15.12.2019 under Sections 109, 114, 148, 149, 302, 201 and 120-B IPC, Police Station Sadar Palwal, District Palwal.

Notice of motion was issued.

Learned State counsel made appearance and filed custody certificate as well as status report. Learned counsel for the complainant has also made appearance.

Heard on the petition.

As per version of the prosecution, on 14.12.2019, at about 5.20

pm, complainant Mukesh along with his uncle Krishan were going to Gosain Temple in their village. When they reached the temple, all of a sudden, Rambir, Ombir, Vinod, Mukesh, Rajesh, Mahipal, Babulal, Sukhbhir, Dev Charan brother-in-law of Rambir and three other boys, armed with axes, swords, hammers, rods, fire arm and sticks, came there in three vehicles, to take revenge of old enmity with Krishan. On exhortation of Vinod and Rambir, all the assailants attacked Krishan and caused serious injuries, on various parts of his body. After the occurrence, Krishan was taken to the hospital, where he was declared dead. The FIR was got registered on 15.12.2019, at the instance of the complainant. In his first statement, besides naming the aforesaid assailants specifically, the complainant had also stated about aforesaid assailants to be accompanied with 3-4 other unknown boys. However, on 16.12.2019, in the supplementary statement, complainant Mukesh had disclosed names of Naresh Kumar (present petitioner) and Gajju @ Gajender, as two of 3-4 unknown boys, who accompanied the assailants.

It is now submitted by learned counsel for the petitioner that Naresh Kumar-present petitioner, was not named in the FIR, at the first instance. Only on the basis of the supplementary statement got recorded by the complainant, he was nominated as accused. He was arrested on 17.12.2019 and since then, he is behind the bars. It is further submitted that even though, challan had been presented, but however, the trial is proceeding at snail's pace. As such, a prayer has been made for grant of regular bail to the petitioner.

On the other hand, learned State counsel has refuted the claim for grant of bail. She submits that accusations are of serious nature. In fact,

the petitioner had also facilitated the taking place of the occurrence and therefore, no case is made out for grant of bail.

The petitioner is in custody since 17.12.2019 and there is no other case against the present petitioner. As per the status report furnished by learned State counsel, challan at first instance, was presented on 21.04.2020. However, on 27.01.2021, co-accused Sukhbir was arrested and supplementary challan was presented on 22.04.2021. Charge was framed on 23.03.2022. However, certain accused, had earlier been declared innocent and thereupon, application under Section 319 Cr.P.C., has been filed on 14.11.2022 and the date fixed for reply is 02.12.2022.

It is submitted by learned State counsel that there are 22 cited witnesses and only one witness, namely Mukesh-complainant has been examined and thereupon, application under Section 319 Cr.P.C. has been filed to summon Ombir, Dev Charan and Gajender @ Gajju, as accused.

At first instance, the complainant had mentioned the names of the assailants specifically and also stated about them to be accompanied with 3-4 unknown persons. Thereupon, supplementary statement of the complainant was recorded on the next date i.e. 16.12.2019 and therein, he had named present petitioner, to be accompanying the assailants. The role attributed to Naresh Kumar-petitioner is that he had conspired with other assailants and had kept a watch, near the car, while occurrence was caused by the fellow companions. The petitioner is in custody since 17.12.2019. As detailed aforesaid, for all the purposes, qua the accused, the trial is proceeding at snail's pace. Conclusion of the trial is likely to take time.

Considering the long incarceration already faced by the petitioner and also considering the stage of the trial, without dilating further

on merits of the case, this Court deem it appropriate to grant regular bail to the present petitioner. Accordingly, the present petition is allowed and petitioner is ordered to be released on bail, subject to his furnishing bail bonds/surety bonds to the satisfaction of the concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

November 30, 2022

Vgulati

Whether speaking/reasoned

Whether reportable

(ARCHANA PURI)

JUDGE

Yes

No