

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

234

CRM-M No.34533 of 2022
Date of Decision: 22.08.2022

Rakesh

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Sandeep Gahlawat, Advocate,
for the petitioner.

Mr. Surinder Kumar Dagar, DAG, Haryana.

JASGURPREET SINGH PURI, J. (Oral)

The present is a second petition been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR bearing No.312 dated 22.11.2018, under Sections 148, 149, 302 of the IPC 1860 and Sections 25, 54, 59 of Arms Act, 1959, registered at Police Station Rohtak Civil Lines, District Rohtak.

It has been submitted by learned counsel for the petitioner that the petitioner is in custody from 29.11.2018 which is almost three years and eight months. He submitted that the petitioner has not committed any offence and he is not involved in any other case. He further submitted that even as per the FIR and the prosecution story itself, main accused namely Yogesh along with some other persons had attacked the deceased and the deceased had died due to firearm injury the role which was attributed to the co-accused Yogesh. He submitted that the other co-accused namely, Rajesh Nain @ Raju and Akash @ Golu have already been granted regular bail by this Court in CRM-M No.26909 of 2022 vide Annexure P-7. Learned counsel has submitted that the petitioner is at parity with the aforesaid co-accused and the mere fact that

the name of the petitioner was mentioned in the FIR and that of other co-accused was not mentioned cannot become ground for denial of bail to the petitioner. In view of the fact that there is no specific role attributed to the petitioner accompanied by the fact that the only injury suffered by the deceased was of firearm injury and which was attributed to co-accused Yogesh even as per the prosecution itself. He further submitted that apart from the same, out of 41 cited witnesses, 15 have already been examined including both the eye-witnesses and all the material witnesses have been examined. He submitted that eye-witnesses and material witnesses have not supported the prosecution version and they have been declared hostile.

On the other hand, learned State counsel, on instructions from ASI Kapil, has stated that it is correct that the petitioner is in custody from almost three years and eight months and the other co-accused have been granted bail by this Court vide Annexure P-7. He has submitted that the petitioner is not involved in any other case. He, however, opposes the grant of regular bail to the petitioner on the ground that the petitioner was specifically named in the FIR.

I have heard the learned counsel for the parties.

The petitioner is in custody from almost three years and eight months and 15 witnesses out of 41 cited witnesses have already been examined and as per the learned counsel for the parties, both the eye-witnesses and the other material witnesses have not supported the prosecution version and they have been declared hostile. The other co-accused although not named in the FIR have been granted bail by this Court vide Annexure P-7. The petitioner is also not involved in any other case.

Furthermore, it is not the case of the State that in case the petitioner is

released on bail he may repeat the offence, abscond from justice and may influence the witnesses. Therefore, this Court is of the view that the petitioner deserves the concession of regular bail.

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

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

22.08.2022
manju

(JASGURPREET SINGH PURI)
JUDGE

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