

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

236

CRM-M-36090-2022(O&M)

Date of decision: 24.08.2022

PARDEEP

....Petitioner(s)

Versus

STATE OF HARYANA

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present : Mr. Vikram Bali, Advocate
for the petitioner.

Mr. Praveen Bhadu, AAG Haryana.

VIKAS BAHL. J. (ORAL)

This is the first petition filed under Section 439 Cr.P.C for grant of regular bail to the petitioner in case FIR No.707 dated 02.08.2018 registered under Sections 323, 396 and 120-B IPC & Section 25/27/54/59 of Arms Act, 1959 at Police Station Model Town, District Panipat.

Learned counsel for the petitioner has submitted that in the present case, the petitioner was not named in the FIR and has been named in the disclosure statement of the co-accused Sunny who was arrested along with the other co-accused Rafiq, Salim and Intzar. It is further submitted that the petitioner has been in custody since 18.09.2018 and thus, a custody period of 03 years 11 months and 06 days has been undergone by the petitioner and the petitioner deserves the concession of regular bail on account of long incarceration, moreso when 04 more witnesses are yet to be examined in the present case. It is further submitted that the petitioner is not involved in any other case and the complainant has already been examined. It is argued that there is no established link on the basis of which Rafiq, Salim and Intzar were arrested and thus, the link to arrest

the present petitioner is also not established. It is submitted that no test identification parade was conducted. It is further submitted that the deceased who was a 75 year old person, as per the PMR had not received any gunshot injury and the cause of death of the said deceased was stated to be on account of neck compression. Learned counsel for the petitioner also submitted that in all, there are seven accused, four of the said accused, who were stated to be standing outside as guards, have been granted regular bail by co-ordinate Bench of this Court vide orders dated 21.08.2020 (Annexure P.4), 02.09.2020 (Annexure P.5), 17.11.2020 (Annexure P.6) and 04.12.2020 (Annexure P.7). Learned counsel for the petitioner has submitted that even Jony Kumar, against whom the allegation was that he had gone inside the room where the alleged incident had taken place, has also been granted the concession of bail vide order dated 17.03.2022 passed in CRM-M-41961-2020.

Learned State Counsel has opposed the present application for regular bail and has submitted that three persons out of the seven accused had entered into the house of the complainant Veena Diori and in their effort to commit robbery, had first tied up the complainant and, thereafter, had killed the father of the complainant and had fled away with money and gold jewellery. It is further submitted that during investigation, on 22.09.2018, co-accused Rafiq, Salim and Intzar were arrested and, thereafter, on 30.09.2018, co-accused Sunny was arrested and as per disclosure statement of the said accused, the present petitioner was arrested on 18.09.2018. It is submitted that as per the prosecution case, the petitioner was one of the three persons, who had gone inside. The factum with respect to no test identification parade having been conducted and the custody period and also the fact that the petitioner is not involved in any other case, is not disputed. It is submitted that recovery of pistol has been effected from the present

petitioner.

Learned counsel for the petitioner in rebuttal has submitted that there is no gunshot injury suffered by the deceased, as per the postmortem report of the deceased.

This Court has heard learned counsel for the parties and have perused the record. The petitioner was not named in the FIR. No test identification parade had been conducted in the present case. The co-accused of the petitioner, i.e. Rafiq, Salim and Intzar and Sunny were arrested and it is on the basis of the disclosure statement of the co-accused Sunny, that the present petitioner was arrested on 18.09.2018 and since then, the petitioner is in custody and, thus the petitioner has been in custody for more than 03 years and 11 months. In the trial, there are 04 witnesses yet to be examined, therefore, the trial is likely to take time to be concluded. The co-accused of the petitioner Jony Kumar who is stated to be the person who had gone inside the house, as has also been alleged against the present petitioner, had been granted bail by this Court vide order dated 17.03.2022 passed in CRM-M-41961-2020.

Keeping in view the above-said facts and taking into consideration substantial period of custody undergone by the petitioner and also the fact that the petitioner is not involved in any other case, the petition is allowed and the petitioner is directed to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate, subject to him not being required in any other case.

However, it is made clear that in case, any act is done by the petitioner to threaten the complainant or any of the witnesses, then it would be open to the State to move an application for cancellation of bail granted to the petitioner.

Nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

(VIKAS BAHL)
JUDGE

August 24, 2022
S.Sharma(syr)

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>