

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

**CRM-M-40152-2021
Date of Decision: 16.08.2022**

Mosim

....Petitioner

VS

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Manoj Tanwar, Advocate
for the petitioner

Mr. Samarth Sagar, Addl. A.G. Haryana

Mr. Rajesh Lamba, Advocate
for the complainant

SUDHIR MITTAL, J. (Oral)

The petitioner seeks grant of regular bail in case FIR No. 860 dated 11.11.2019 registered at Police Station Nuh, District Nuh under Sections 302, 201, 34 IPC and Section 6 of the POCSO Act, 2012.

According to the case put forth in the FIR, the petitioner and eight other persons were alleged to have committed unnatural sex with the deceased and then killed him.

Learned counsel for the petitioner submits that the other eight accused have been exonerated and have not been challaned. The petitioner has also not been challaned under Section 302 IPC. He has been in custody since 12.11.2019 and there is no other criminal case registered against him. The complainant has already been cross-examined. Another eight witnesses remain to be examined and, thus, considering the custody period as well as the fact that trial is not likely to be concluded at an earlier date the petitioner may be released on regular bail.

Learned State counsel submits that there is evidence on record to show that the petitioner was in touch with the deceased on his mobile phone on the night of the incident. The fact that the petitioner has not been challaned under Section 302 IPC is not conclusive. A grave and heinous offence has been committed on account of which the petitioner is not entitled for grant of regular bail. The first bail petition filed on behalf of the petitioner was dismissed on merits vide order dated 16.10.2020 and there are no changed circumstances as on date.

Learned counsel for the complainant submits that the grand father of the deceased has also to be examined.

It is not in dispute that the petitioner is not involved in any other criminal case. It is also not in dispute that the petitioner has been in custody for 2 years and 9 months and that the trial is not likely to be concluded at an early date. The evidence of the complainant is complete. A period of two years has elapsed since passing of order dated 16.10.2020 and the trial has not progressed materially. Keeping all these factors in view, I deem it appropriate to grant regular bail to the petitioner.

The petition is, accordingly, allowed and the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

It is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

(SUDHIR MITTAL)
JUDGE

16.08.2022

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Whether speaking/reasoned
Whether Reportable :

Yes/No
Yes/No