

212

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

**CRM-M-44620-2021
Date of Decision: 06.07.2022**

Mandeep

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. J.C. Malik, Advocate,
for the petitioner.

Mr. Naveen S. Panwar, D.A.G., Haryana.

JASGURPREET SINGH PURI, J. (ORAL)

The present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case bearing FIR No.349 dated 21.12.2019, under Sections 302, 201 & 34 of the IPC, registered at Police Station I.M.T. Rohtak.

Learned counsel for the petitioner has submitted that the petitioner is in custody since 10.02.2020 which is more than two years and five months. He further submitted that the charges in the present case were framed on 23.03.2021, which is also more than one year but till date no prosecution witness has been examined. He also submitted that in the present case, the main accused was one Vikas whose role has been mentioned in the FIR itself and the name of the petitioner was not

mentioned in the FIR and he was nominated purely on the basis of disclosure statement made by the co-accused which is not admissible in evidence. He further submitted that the petitioner has got clean antecedents and is not involved in any other case. He further referred to an order dated 09.03.2022 passed in CRM-M-8421-2021 whereby similarly situated co-accused, namely, Sachin, who was also nominated on the basis of disclosure statement, has been granted bail by this Court, although one of the ground in that case was his medical condition. He also submitted that delay in trial has caused prejudice to the petitioner, and therefore, he may be considered for the grant of regular bail.

On the other hand, Mr. Naveen S. Panwar, learned Deputy Advocate General, Haryana, has submitted that it is correct that the petitioner is in custody since 10.02.2020, which is about 2½ years and after the framing of the charges on 23.03.2021, no prosecution witness has been examined. He further submitted that the name of the petitioner was nominated on the basis of disclosure statement but there was a recovery of one mobile phone of the deceased from the petitioner and therefore, he was involved in the present case. So far as the antecedents of the petitioner is concerned, learned State counsel has submitted that it is correct that the petitioner is not involved in any other case.

I have heard the learned counsel for the parties.

The petitioner has faced incarceration for about 2½ years. The charges were framed on 23.03.2021, which is again more than one year but no justification has come forward from the State counsel as to why there was a delay in the trial. As per the learned counsel for the parties, the

petitioner is not involved in any other case. The other similarly situated co-accused, namely, Sachin has also been granted bail by this Court although one of the ground which was taken by him was his medical condition. Apart from the above, it is not the case of the State that in case the petitioner is released on bail then he may abscond or flee from justice or may influence the witness or may tamper with the evidence. Therefore, considering the totality of the circumstances as aforesaid, this Court deems it fit and proper to grant bail to the petitioner.

Consequently, the present petition is allowed and the petitioner is ordered to be released on bail on furnishing bail bond/surety bond to the satisfaction of the trial Court/Duty Magistrate concerned, if not required in any other case.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of present petition.

06.07.2022*Bhumika***(JASGURPREET SINGH PURI)
JUDGE**

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| 1. Whether speaking/reasoned: | Yes |
| 2. Whether reportable: | Yes/No |