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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-44757-2022 (O&M)
Date of Decision: 20.12.2022

Jaipal

....Petitioner(s)

Versus

State of Haryana

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Saurabh Sharma, Advocate, for the petitioner.

Mr. Surinder Kumar Dagar, DAG, Haryana.

JASGURPREET SINGH PURI, J. (Oral)

The present is a second petition filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No. 95 dated 30.08.2020, under Sections 148,149, 307,302, 120-B IPC and Section 25 of Arms Act, registered at Police Station Krishna Gate, Thanesar, District Kurukshetra.

It has been submitted by the learned counsel for the petitioner that the petitioner is in custody from 02.09.2020 which is more than 2 years, and 3 months He submitted that the petitioner is not a habitual offender and is not involved in any other case. He submitted that it is a case where the allegation was that the co-accused namely Shunty alongwith the present petitioner and two more young boys had killed Vinod by firing gunshots at

him and one more person was also injured by one co-accused namely Vikas whose name is also mentioned in the FIR.. He submitted that a perusal of the FIR would show that the role of shooting the deceased and stabbing Vinod was attributable to co-accused namely, Shunty and Gaga respectively and so far as the present petitioner is concerned, even as per the prosecution itself, he had only followed one Vikas on motorcycle and he has already faced incarceration for more than 2 years. He submitted that all the material witnesses including the complainant have been examined and therefore, the petitioner may be considered for the grant of regular bail.

On the other hand, Mr. Surinder Kumar Dagar, learned Deputy Advocate General, Haryana has submitted that it is correct that the petitioner has faced incarceration for more than 2 years and 3 months and the role attributable to the petitioner was that he had followed one Vikas on a motorcycle. However, on a query being raised to the learned State counsel as to whether such motorcycle has been recovered or not, he submitted on instructions from ASI Sudhir Kumar that no such motorcycle has been recovered. He submitted that it is correct that the petitioner is not a habitual offender and is not involved in any other case and the main role for causing death and injuries was attributable to the co-accused namely, Shunty and Gaga. He has however opposed the grant of bail to the petitioner on the ground that the matter is serious in nature.

I have heard the learned counsel for the parties.

The petitioner has faced incarceration for more than 2 years and 3 months. As per the learned counsel for the parties, the material witnesses including the complainant have already been examined. The role

attributed to the petitioner was that he had followed the injured namely Vikas on a motorcycle but as per the learned counsel for the parties, no such motorcycle has been recovered and as per the FIR itself, one co-accused namely Shunty had caused the death of the deceased by way of gunshot injuries and the other injured was stabbed by other co-accused namely Gaga. Furthermore, it is not the case of the State that in case the petitioner is released on bail, then he may influence any witness or may tamper with evidence or may flee from justice.

Therefore, considering the aforesaid role being assigned to the petitioner as per the prosecution, considering the long custody of the petitioner and the clean antecedents of the petitioner, this Court is of the view that the petitioner deserves the concession of regular bail.

Consequently, the present petition is allowed. The petitioner shall be released on regular bail subject to furnishing bail bonds/surety to the satisfaction of the learned trial Court/Duty Magistrate concerned.

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

20.12.2022

rakesh

Whether speaking
Whether reportable

(JASGURPREET SINGH PURI)
JUDGE

: Yes/No
: Yes/No