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

CRM-M-53320-2021 (O&M)

Date of decision : 23.05.2022

Rahul

... Petitioner(s)

Versus

State of Haryana

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Naresh Jain, Advocate for the petitioner.

Ms. Ambika Luthra, Addl. AG Haryana.

ALKA SARIN, J. (ORAL)

This is the second petition filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.769 dated 05.08.2018 under Sections 147/148/149/302/396/452/506/120-B of the Indian Penal Code, 1860 (IPC) and Sections 25/54/59 of the Arms Act, 1959 registered at Police Station Sadar Hisar, District Hisar.

First petition being CRM-M-34138-2019 was dismissed by this Court vide order dated 09.11.2020.

Learned counsel for the petitioner would contend that after passing of the order dated 09.11.2020 the change in circumstances are firstly that the period of custody has increased and the petitioner has now been in custody for a period of 3 years, 9 months and 2 days as per the custody certificate dated 20.05.2022; secondly that similarly situated co-accused

namely, Ajay, has since been granted the concession of regular bail by this Court vide order dated 25.11.2021 in CRM-M-29478-2021; and thirdly that Krishna, on the basis of whose supplementary statement the present petitioner was nominated after 8 days of the registration of the FIR, had since turned hostile. It is further the contention of learned counsel for the petitioner that there is no other case pending against the petitioner.

Per contra, learned counsel for the State has pointed out that besides the statement of Krishna the co-accused namely, Narinder @ Bhanu, has also stated in his disclosure statement that he along with the petitioner - Rahul - and co-accused, Ajay, murdered Balbir and Kartar Singh. Learned counsel for the State is not in a position to deny that the allegations against the present petitioner - Rahul - and the co-accused namely, Ajay, who has since been granted bail by this Court in CRM-M-29478-2021 on 25.11.2021, are similar. She is also not in a position to deny the fact that there is no other case pending against the petitioner and the petitioner has been in custody for a period of 3 years, 9 months and 2 days.

Heard.

In the present case the petitioner has been in custody since 19.08.2018 i.e. for a period of 3 years, 9 months and 2 days. Similarly situated co-accused namely, Ajay, has since been granted the concession of regular bail by this Court in CRM-M-29478-2021 on 25.11.2021. There is no other case pending against the petitioner. The eye-witness namely, Krishna, on the basis of whose supplementary statement the present petitioner was nominated, has turned hostile. The conclusion of the trial is

likely to take some time.

In view of the above-mentioned circumstances, detention of the petitioner would not serve any useful purpose. Without commenting upon the merits of the case, I deem this to be a fit case to grant the concession of regular bail to the petitioner. The petitioner is directed to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the Illaqa Magistrate/Duty Magistrate/Trial Court concerned.

However, the Prosecution will always be at liberty to apply for cancellation of bail in case the petitioner is found to be misusing the concession of bail in any manner.

It is also made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

Disposed off. Pending applications, if any, also stand disposed off.

23.05.2022
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE : Whether speaking/non-speaking : Speaking
Whether reportable : YES/NO