

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(101+202)

CRM-46856-2022 in/and

CRM-M-49443-2022

Date of Decision : December 21, 2022

Jai Parkash

.. Petitioner

Versus

State of Haryana

.. Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ramnish Puri, Advocate, for the petitioner.

Mr. Rajesh Gaur, Additional Advocate General, Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)

CRM-46856-2022

As prayed for, the application is allowed.

Annexures P-5 to P-9 are taken on record.

CRM-M-49443-2022

Custody certificate of the petitioner has been filed in the Court today and the same is taken on record.

Present petition has been filed under Section 439 Cr.P.C for the grant of regular bail to the petitioner in respect of FIR No.199 dated 14.08.2019 registered under Sections 302, 404, 120-B, 216 and 34 of the Indian Penal Code, 1860 and Section 25 of the Arms Act, 1959 at Police Station Sadar Narwana, District Jind.

Learned counsel for the petitioner argues that the petitioner has been roped in the present case under Section 120-B of the IPC with regard

to hatching the conspiracy for committing murder along with other co-accused and allowing his vehicle to be used by other accused persons. Learned counsel for the petitioner submits that once the allegation against the petitioner is only of conspiracy and not actually participating in the crime and the said conspiracy is yet to be proved on record, the petitioner, who is already behind the bars for the last more than three years and four months, may kindly be extended the benefit of regular bail as out of the total 41 prosecution witnesses, only eight witnesses have been examined so far and the trial is likely to take some time before it concludes.

Learned counsel for the petitioner further submits that co-accused namely Vikas from whom a weapon in the shape of screw driver was recovered, which allegedly was used in the crime, has already been granted the benefit of regular bail by the Coordinate Bench of this Court while passing order in CRM-M-29995-2021 on 16.11.2022, hence, on the ground of parity, the petitioner be also granted the concession of regular bail.

Notice of motion.

Mr. Rajesh Gaur, learned Additional Advocate General, Haryana, who is present in the Court, accepts notice on behalf of the respondent-State.

A detailed status report has been filed by the respondent-State on the basis of which, learned State counsel submits that the petitioner participated in the conspiracy to kill and his vehicle was also used in the crime, which was recovered from his house, keeping in view the disclosure statement of the petitioner himself.

Learned State counsel, on the instructions from ASI Kuldeep Singh, Police Station Sadar Narwana, District Jind, submits that nothing has come on record so far as per which it could be stated that the petitioner was present at the spot of incident, nor has any injury inflicted upon the deceased been attributed to the petitioner.

Learned State counsel also concedes the fact that co-accused Vikas, against whom there is allegation of participating in the conspiracy, as well as allegation of actively participating in the commission of the crime on the day of incident, has already been extended the concession of regular bail by the Coordinate Bench of this Court.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

Keeping in view the facts and circumstances of the present case noticed hereinbefore, which are not in dispute, the petitioner has been roped in the present case only in respect of hatching of the conspiracy by invoking Section 120-B of the IPC. The only recovery, which has been done from the petitioner, is of his own vehicle, which was parked at his own house, which is alleged to have been used in the crime. The allegation whether the petitioner participated in the conspiracy or the vehicle belonging to the petitioner was used in the crime, is yet to be proved during the trial keeping in view the facts, which will come on record.

It has also come on record that the complainant has been examined and nothing has come in the statement of the complainant qua any role played by the petitioner during the commission of the crime. This Court is not opining upon the innocence or the guilt of the petitioner, at this

stage as the same will depend upon the evidence, which will come on record, therefore, keeping in view the fact that the petitioner is already behind the bars for the last more than three years and four months and the trial is likely to take some time before it concludes coupled with the fact that material witness has already been examined and also keeping in view of the gravity of the allegations being alleged against the petitioner as well as the grant of concession of bail to co-accused Vikas against whom the allegations are of more serious nature as compared to the petitioner, the petitioner has made out a case for the grant of regular bail especially when learned counsel for the petitioner has undertaken before this Court that in case the petitioner is granted the concession of regular bail, he will not misuse the same by influencing the trial or the witnesses in any manner and in case of default of the above undertaking, State will be at liberty to approach this Court for passing appropriate orders.

In view of the above and without commenting upon the merits of the case, it is directed that the petitioner be released on regular bail, subject to the satisfaction of the trial Court/Duty Magistrate concerned.

However, it is made clear that anything observed herein shall not be construed to be an expression of any opinion on the merits of the case.

December 21, 2022
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No