

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

(Sr. No.222)

CRM-M No. 295 of 2023

Date of decision : 02.05.2023

Sushil

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL

Present : Mr. Aditya Sanghi, Advocate for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana.

Mr. Sunil Saharan, Advocate for the complainant.

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DEEPAK SIBAL, J. (Oral)

(1) The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail in FIR No.568 dated 31.05.2022 registered under Sections 120-B, 302, 307, 323, 325, 34, 447 and 506 IPC at Police Station Barwala, District Hisar.

(2) The petitioner, along with his co-accused Anirudh and Gurmeet, are being prosecuted for the murder of Raj Kumar.

(3) Learned counsel for the petitioner contends that the petitioner has been falsely implicated in this case only because he is the brother of the main accused Gurmeet; the petitioner has no other criminal antecedents; the petitioner is in custody since 28.06.2022; all the material prosecution witnesses in the petitioner's trial stand examined; through order dated 30.11.2022 passed in CRM-M No.48573 of 2022 – Anirudh Vs. State of Haryana, co-accused Anirudh, who has been attributed similar role as the

petitioner, has been granted regular bail by this Court; in his initial statement given to the police complainant - Bansi Lal had stated that the petitioner and Gurmeet drove the tractor over the crop sown by deceased Raj Kumar; thereafter, the police was called and the petitioner and Anirudh ran away from the spot, whereas he, Gurmeet and Raj Kumar went to the Police Post where Gurmeet murdered Raj Kumar; however, while appearing before the trial court as PW-2 complainant - Bansi Lal improved his version by stating that at the Police Post the petitioner and Anirudh came and at their exhortion Gurmeet murdered Raj Kumar; the afore improvement by Bansi Lal was only to rope in the petitioner only as he is the real brother of the main accused Gurmeet and that since 17 prosecution witnesses still remain to be examined in the petitioner's trial, the same will take a long time to conclude.

(4) Learned State counsel as also learned counsel for the complainant do not dispute the period of custody of the petitioner as also grant of bail by this Court to the similarly placed co-accused Anirudh but oppose grant of bail to him on the ground that if released on bail he may influence the course of his trial.

(5) Learned counsel for the parties have been heard at length and with their able assistance the records of the case have also been perused.

(6) The effect of the alleged change in the version of complainant - Bansi Lal in his initial statement before the police and his statement before the trial court shall be debated during the course of the petitioner's trial. However, through order dated 30.11.2022 passed in CRM-

M No.48573 of 2022 – Anirudh Vs. State of Haryana, this Court has granted regular bail to co-accused Anirudh who has been attributed a similar role as the petitioner; the petitioner has been in custody since 28.06.2022; all the material prosecution witnesses in the petitioner's trial stand examined; the petitioner has no other criminal antecedents and that since 17 prosecution witnesses still remain to be examined in the petitioner's trial, the same is likely to take long time to conclude.

(7) In view of the above, the present case is considered to be a fit one in which the petitioner be directed to be released on regular bail. Resultantly, subject to the satisfaction of the CJM/Duty Magistrate, Hisar, the petitioner is directed to be released on bail.

(8) It is clarified that the above observations have been made only for the limited purpose of deciding the present regular bail application and the same would not be construed to be an expression of opinion on the merits of the case.

02.05.2023

sunil yadav

**(DEEPAK SIBAL)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No