

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

**CRM-M-3217-2023
Decided on:-25.01.2023**

Sharif Mohammad @ Shia

....Petitioner..

vs.

State of Punjab

....Respondent.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Nikhil Ghai, Advocate,
for the petitioner.

Mr.Amit Shukla, AAG, Punjab,
for the respondent-State.

HARKESH MANUJA J. (Oral)

By way of present petition, petitioner prays for grant of regular bail during pendency of trial in case FIR No.43 dated 20.05.2018, under Sections 364, 302, 201, 365, 120-B IPC and Sections 25/27,54/59 of the Arms Act, 1959, registered at Police Station Tarshikka, District Amritsar.

Learned counsel for the petitioner submits that in the present case, petitioner is behind the bars for the last more than 4 years and 6 months now, and all the material witnesses already stand examined before the trial court. Seeking parity, learned counsel for the petitioner has also relied upon order dated 21.12.2022 passed by this Court in CRM-M-9206-2020 titled "*Masoom Ali vs. State of Punjab*". It has also been submitted that the present is the case of circumstantial evidence, thus, prays for grant of concession of regular bail.

On the other hand, prayer made in the present petition has been opposed by learned State counsel while submitting that the prosecution

witnesses have specifically deposed against the petitioner during trial implicating him in the alleged offence. He also submits that out of total of 56 witnesses cited by the prosecution, 13 stand already examined and now the trial is fixed for 13.02.2023, however, he has not been able to controvert the plea of parity raised at the instance of the petitioner.

I have heard learned counsel for the parties and gone through the paper book.

Considering the facts that the petitioner is behind the bars for the last more than 4 years and 6 months now and the entire prosecution case is based on extra-judicial confession as well as last seen theory, which shall be adjudicated upon by the trial court in due course, any further incarceration of the petitioner shall be unjustified as all the material private witnesses have already been examined by prosecution and the examination of other official witnesses is definitely going to take some time.

More than that, I also find merit in the submission raised at the instance of the petitioner as regards his claim of parity with co-accused, namely, Masoom Ali, who has already been granted the concession of regular bail by this Court vide order dated 21.12.2022.

In view of the above, without expressing any opinion on the merits of the case, the present petition is allowed. Petitioner is ordered to be released on bail, subject to his furnishing bail bonds and surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

25.01.2023
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(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/ No