

214

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-2958-2023
Date of decision: 03.11.2023

GABBAR SINGH

...Petitioner

VERSUS

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Satbir Singh Kanwar, Advocate
for the petitioner.

Mr. Vishal Kashyap, DAG, Haryana.

Mr. P. S. Bindra, Advocate
for the complainant.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No.229 dated 29.06.2021, under Sections 147, 149, 323, 379-B, 506 and 120-B of the IPC (Section 302 of the IPC added later on), registered at Police Station Agroha, District Hisar, Haryana.

2. Learned counsel for the petitioner submitted that the petitioner is in custody from 31.07.2021, which is more than 2 years and 3 months. He further submitted that as per the allegations in the FIR, when the complainant along with his father was sleeping in the fields, then the other co-accused, namely, Radha, her brothers and some other persons had come there on two cars and

caused injuries to the complainant and his father. He further submitted that the petitioner was not named in the FIR and it was only later on during investigation that his name was nominated and as per the prosecution, his statement was recorded before the police and thereafter the role attributed to the petitioner as per the police was that of causing of injuries by way of *danda*. He also submitted that the petitioner has been implicated only on the ground that allegedly he was known to one of the main accused, namely, Billa but he did not participate in the present offence and it was only to falsely implicate the petitioner that his name was nominated. He further submitted that even otherwise also now the complainant, namely, Pardeep has already been examined. He further submitted that some of the other co-accused, namely, Mahinder, Mandeep, Sunil @ Sunil Kumar, Toni Ram and Jarnail Singh have already been extended the benefit of regular bail by this Court vide Annexure P-2 on 11.11.2022. He also submitted that even on the ground of parity, the petitioner is entitled for grant of regular bail. He also submitted that the petitioner is not involved in any other case except for one case under the NDPS Act. He further submitted that considering the alleged role of the petitioner and his total custody and the stage of the trial wherein only one prosecution witness has been examined, he may be considered for grant of regular bail.

3. On the other hand, Mr. Vishal Kashyap, DAG, Haryana submitted that so far as the custody of the petitioner is concerned the same is correct and it is also correct that the complainant has been examined in the present case. He however submitted that although the name of the petitioner did not figure in the FIR but later on it was found that he also participated in the present offence by causing injuries to the complainant and his father by way of *danda*.

4. Learned counsel for the complainant submitted that the petitioner was actively involved in the present offence and there had been a recovery of blood-stained *danda* from him.

5. I have heard the learned counsel for the parties.

6. The petitioner is in custody for more than 2 years and 3 months and the complainant in the present case has already been examined. The aforesaid five co-accused have already been extended the benefit of regular bail by this Court vide Annexure P-2. The aforesaid five co-accused were summoned on the basis of application filed by the prosecution under Section 319 Cr.P.C. because earlier they were exonerated by the police during investigation. Although the petitioner may not be strictly at parity with the aforesaid five co-accused but considering his total custody and the fact that he was not named in the FIR and thereafter he was nominated and the role attributed to him was that he was only a friend of the main accused, namely, Billa, who had inflicted injuries upon the deceased i.e. the father of the complainant, this Court is of the view that the present petitioner deserves the concession of regular bail. Apart from the above, it is not the case of the learned State counsel 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.

7. Therefore, considering the aforesaid totality and circumstances of the present case and also considering the custody of the petitioner, this Court deems it fit and proper to grant regular bail to the petitioner.

8. Consequently, the present petition is allowed. The petitioner shall be released on regular bail, if not required in any other case, subject to

furnishing bail bonds/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate concerned.

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

03.11.2023
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No