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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-5395-2023 (O&M)
Date of decision: 16.08.2023

VIJAY ALIAS TONI

...Petitioner

VERSUS

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Sandeep Kumar Yadav, Advocate
for the petitioner.

Mr. Naveen Kumar Sheoran, DAG, Haryana.

JASGURPREET SINGH PURI, J. (Oral)

1. The present is a second petition filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No.282 dated 02.09.2021, under Section 302 of the IPC and under Section 25 of the Arms Act, 1959, registered at Police Station Sadar Narnaul.

2. Learned counsel for the petitioner has submitted that the petitioner is in custody from 12.09.2021, which is almost 1 year and 11 months. He submitted that now 10 witnesses have been examined including the complainant and all the material witnesses have been examined. He further submitted that the complainant and some of the other witnesses did not support the prosecution version at all. He further submitted that the entire case is based upon hearsay and circumstantial evidence. He further submitted that the name of the

petitioner was nominated on the basis of the disclosure statement of the other co-accused, namely, Mahesh and the petitioner has no criminal antecedents and is not involved in any other case. He further submitted that the trial of the case may take long time to conclude and, therefore, the petitioner may be considered for the grant of regular bail.

3. On the other hand, Mr. Naveen Kumar Sheoran, DAG, Haryana has submitted that so far as the custody of the petitioner is concerned, the same is correct and it is also correct that 10 witnesses including the complainant have been examined and the complainant has not supported the prosecution version. He further submitted that the petitioner has no criminal antecedents and is not involved in any other case.

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

5. It is a case where the petitioner has already faced incarceration of about 1 year and 11 months and as per the allegations contained in the FIR, the complainant had lodged the present FIR by alleging that he received an information that his brother has been shot and he is lying dead on the floor of liquor vend and the said FIR was lodged against some unknown persons. The name of the petitioner surfaced on the basis of disclosure statement of the other co-accused, namely, Mahesh and the petitioner is stated to be having no criminal background and is not involved in any other case. As per the learned counsel for the parties, the complainant has not supported the prosecution version at the time of trial and all the material witnesses stand examined. Furthermore, it is not the case of the State 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.

6. In view of the aforesaid facts and circumstances, this Court deems it fit and proper to grant regular bail to the petitioner.

7. Consequently, the present petition is allowed. The petitioner shall be released on regular bail subject to furnishing bail bonds/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate concerned.

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

16.08.2023
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

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