

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANIDGARH

236

CRM-M-7178 of 2023
Date of Decision: 09.03.2023

Sakrulla @ Sakku

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Mazlish Khan, Advocate
for the petitioner.

Ms. Upasna Dhawan, AAG, Haryana.

Mr. Akshay Jindal, Advocate
for the complainant.

VIKAS BAHL, J (ORAL)

This is the third petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No.484 dated 14.09.2019, under Sections 148, 149, 323, 325, 307, 302, 506, 201, 212 and 120-B IPC and Section 25 of the Arms Act, 1959, registered at Police Station Sadar Tauru, District Nuh.

Learned counsel for the petitioner has submitted that the petitioner is in custody since 21.07.2021 and out of 54 witnesses, only one has been partly examined and thus, the trial is likely to take time. It is further submitted that the prosecution has moved an application under Section 319 Cr.P.C. which has been dismissed and in the revision petition filed against the same, notice has been issued and thus, the trial is further likely to get delayed. It is submitted that the petitioner is not involved in any other case

and it was wrongly pointed out on 10.01.2023 i.e. date of order of withdrawal of last bail application, that the petitioner is involved in other cases and the said fact has been duly verified on the basis of the affidavit dated 07.03.2023 filed by Deputy Superintendent of Police, Head Quarter, District Nuh. It is further submitted that the last bail application of the petitioner was withdrawn on 10.01.2023 on the objection raised by the respondent to the effect that the petitioner is involved in other cases with liberty to file a fresh one after giving full and better particulars. It is further submitted that the case of the petitioner is on the same footing as that of co-accused Jaikam, who has been granted the concession of regular bail by a Coordinate Bench of this Court in CRM-M-42964-2020, vide order dated 05.01.2021. It is submitted that the present petitioner has not been attributed any injury to the deceased and the petitioner, along with Jaikam, is stated to have allegedly fired at Islam but no specific injury has been attributed to the present petitioner even qua Islam and it has not been stated in the FIR that which part of the body of Islam had received the fire arm injury. It is further submitted that the custody period of the petitioner is longer than that of Jaikam and thus, on the ground of parity, the petitioner deserves the concession of regular bail.

Learned State counsel along with learned counsel for the complainant, on the other hand, have opposed the present petition for regular bail and have submitted that as far as Islam is concerned, he had suffered 10 injuries, out of which, two were puncture wounds, one injury i.e. injury no.4 was on the right thumb and injury No.9 was on the right thigh and in the FIR, it has been stated that the petitioner along with Jaikam, had fired at Islam. It is further submitted that recovery of one country made pistol and two live cartridges has been effected from the petitioner and that

the complainant is yet to be examined. Other facts, have, however, not been disputed.

Learned counsel for the petitioner, in rebuttal, has submitted that even with respect to co-accused Jaikam, recovery of broken country made pistol had been effected from Jaikam.

This Court has heard learned counsel for the parties and has perused the paper book.

The petitioner has been in custody since 21.07.2021 and there are 54 witnesses and only one witness has been partly examined and thus, the trial is likely to take time and the previous bail application filed by the petitioner was withdrawn on 10.01.2023 on the basis of statement made by learned State counsel to the effect that the petitioner is involved in other cases, details of which were not given in the earlier bail application and accordingly, the counsel for the petitioner withdrew the said bail application seeking liberty to file a fresh one after giving full and better particulars, and the same was granted. The petitioner has filed the present petition reiterating the fact that the petitioner is not involved in any other case and accordingly this Court had directed the State counsel to file an affidavit giving details of the cases pending against the present petitioner and in pursuance thereof, learned State counsel has filed an affidavit dated 07.03.2023 today in Court, which is taken on record and as per the said affidavit, the petitioner is not involved in any other case. In the FIR, 13 persons have been arrayed as accused persons and the petitioner has not been attributed any injury to the deceased. No specific injury has been attributed to the petitioner even qua Islam and it has not been stated in the FIR that which part of the body of Islam had received the fire arm injury.

Co-accused Jaikam was granted the concession of regular bail by this Court,

vide order dated 05.01.2023 passed in CRM-M-42964-2020 and the case of the petitioner is on a similar footing as that of Jaikam and the period of custody of the petitioner is longer than that of Jaikam.

Keeping in view the above said facts and circumstances, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate and subject to him not being required in any other case.

However, it is made clear that the petitioner would not go within 100 meters of the house of the complainant during the pendency of the trial and will not do any act to threaten or influence the complainant or any of the witnesses and in case of any violation of any condition imposed vide this order, it would be open to the State to move an application for cancellation of bail.

Nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

09.03.2023*D.Bansal***(VIKAS BAHL)
JUDGE**

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