

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-7365-2023

Date of decision : 24.5.2023

Akash

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. A.S. Shera, Advocate
for the petitioner.

Ms. Tanushree Gupta, DAG Haryana.

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HARNARESH SINGH GILL, J.

Through this second petition, the petitioner seeks regular bail in case bearing FIR No. 281 dated 2.7.2020, registered at Police Station Kundli, District Sonipat, under Sections 304, 323 and 34 IPC.

Learned counsel for the petitioner states that though the petitioner was named in the FIR but the factum is that he has been in custody since 9.7.2020 and that the attribution to the petitioner is of batten blow on the head of deceased Suraj. It is further submitted that Surjit Singh (brother of deceased), who stepped into the witness box as prosecution witness, has been declared hostile on 8.9.2021 and that three witnesses i.e. Monika (complainant), Gulab and Sunny are not appearing in the Court despite the service and have now been summoned

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by way of non bailable warrants. Still further it is contended that there is no other case pending or registered against the petitioner and that out of 16 (sixteen) witnesses, 6 (six) prosecution witnesses have been examined.

Per contra, while opposing the prayer for grant of regular bail to the petitioner, learned State counsel states that the batten blow has been attributed to the petitioner, but has not disputed the fact that Surjit (brother of deceased Suraj) who stepped into witness box as prosecution witness, has not supported the prosecution version and has been declared hostile. It is also not disputed that non bailable warrants have been issued to secure the presence of complainant Monika and other witnesses i.e. Gulab and Sunny.

I have heard the learned counsel for the parties.

Though the injury has been attributed to the petitioner on the head of deceased yet the fact remains that the petitioner has been in custody since 9.7.2020. Surjit (brother of deceased Suraj), who stepped into witness box as PW-1 on 8.9.2021, did not support the prosecution version and has been declared hostile. The trial Court has issued non bailable warrants to secure the presence of complainant Monika, Gulab and Sunny (Pws). 10 prosecution witnesses are yet to be examined and there is no other case pending or registered against the petitioner. In such circumstances, the trial of the case would take a long time to conclude. Therefore, no useful purpose would be served by keeping the petitioner behind the bars.

In view of the above and without commenting anything on

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the merits of the case, lest it should prejudice the case of either side, 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 learned trial Court/Duty Magistrate/Chief Judicial Magistrate concerned.

(HARNARESH SINGH GILL)
JUDGE

24.5.2023
sjks

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No