

CRM-M-9069-2023

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-9069-2023
Date of Decision: 07.07.2023

Rishabh Benipal @ Nannu

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. J.S. Dadwal, Advocate,
for the petitioner.

Mr. Rajiv Verma, DAG, Punjab.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present is a second petition filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case bearing FIR No.41 dated 12.02.2020, under Sections 307, 323, 324, 325, 326, 506, 148 & 149 IPC and Section 201 of the IPC added later on, registered at Police Station Moti Nagar, District Ludhiana.
2. It has been submitted by learned counsel for the petitioner that the petitioner is in custody since 22.02.2020 and in fact he has faced incarceration for 3 years, 4 months and 11 days. He further submitted that it is a case where the fight had taken place between two groups and both the parties were injured. He also submitted that till date not even a single witness has been examined and the petitioner has consequently faced incarceration for more than 3 years. He further submitted that the reason as to why the trial is not progressing is that one of the injured and also the complainant are absconding and they are now declared as P.O. in other

cases. He also submitted that the complainant in the present case is involved in more than 7 cases and in one of those cases, he has been declared as P.O. and therefore, he is not deposing before the Court with the result that the trial is delayed and the petitioner has faced incarceration for more than 3 years.

3. Learned counsel for the petitioner also submitted that the petitioner is having acute medical ailment and this Court had directed the State to get the medical examination of the petitioner done from the Government Hospital and to file a status report and submitted that today the learned State counsel has filed the medical status report of the petitioner and while referring to the same which is dated 05.07.2023, he submitted that from the report it is very clear that in the year 2022, the petitioner had undergone surgery of giant mesenchymal tumor of left side of chest with right sided ectopic testis. He further submitted that after the petitioner was discharged from the hospital, he again developed complications and as per the medical report, again CT Scan was conducted which showed abnormal changes-ill defined small hypo dense area/collection in the left lateral chest wall involving third and fourth inter costal space and post operative changes in bilateral lung fields. The report specifically indicate that there is still presence of tumor and patient's arm is still not showing proper movement and there is presence of sever pain in the left pectoral region and left arm pit region and the petitioner is currently under surveillance and taken care of. He submitted that in view of the intense medical ailment of the petitioner whereby the tumor has re-developed, the petitioner may be considered for the grant of regular bail.

4. On the other hand, Mr. Rajiv Verma, learned DAG, Punjab has stated that it is correct that the petitioner is in custody from 3 years, 4 months and 11 days and no witness has been examined till date. He also verified that the complainant and one of the injured has been declared P.O. in some other cases, and therefore, the trial is not progressing. He has however opposed the grant of regular bail to the petitioner on the ground that the petitioner is a habitual offender and is involved in 17 more cases. So far as the medical report of the petitioner which has been filed by way of an affidavit of Superintendent, Central Jail, Patiala is concerned, as per the report, the petitioner has now again developed tumor in his chest but he can be given proper treatment accordingly.

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

6. The petitioner has faced incarceration for a period of 3 years, 4 months and 11 days. The petitioner is stated to be involved in 17 more cases. However, as per the learned counsel for the parties, none of the prosecution witness has been examined till date and the reason was that the complainant has been declared P.O. in some other case and even one of the injured, who is a witness, is also declared P.O. in some other case, due to which the trial is not progressing. Be that as it may, the medical report clearly shows that the medical condition of the petitioner is not stable and he is actually not well.

7. Therefore, considering the long custody of the petitioner which is 3 years, 4 months and 11 days and more importantly the adverse medical condition of the petitioner, this Court deems it fit and proper to grant regular bail to the petitioner. Consequently, the present petition is allowed and the

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petitioner is ordered to be released on regular bail on furnishing bail bond/surety bond to the satisfaction of the trial Court/Duty Magistrate concerned, if not required in any other case.

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

07.07.2023 (JASGURPREET SINGH PURI)
Bhumika JUDGE

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| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |