

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

212

CRM-M-11149 of 2023
Date of Decision:07.07.2023

Gaurav

....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Jitender Nara, Advocate,
for the petitioner.

Ms. Harpreet Kaur, AAG, Haryana

Mr. Shobit Phutela, Advocate,
for the complainant.

JASGURPREET SINGH PURI, J. (Oral)

1. The present is a third petition filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No.489 dated 30.08.2016, under Sections 148, 149, 307, 302, 379 IPC and Section 25 of the Arms Act (Sections 332, 353, 379-B, 120-B IPC added and Section 379 deleted later on), registered at Police Station Meham, District Rohtak.
2. It is submitted by learned counsel for the petitioner that the petitioner is in custody from 04.10.2017 which is almost five years and nine months. He submitted that as of now only 3 prosecution witnesses out of 48 have been examined and the complainant has already been examined. He further submitted

that the petitioner was a juvenile but by way of order passed by the Juvenile Justice Board, Rohtak on 20.08.2018 he was directed to be tried as an adult. Thereafter, the trial of the case is not progressing and only three prosecution witnesses have been examined with the result the petitioner has faced incarceration for about five years and nine months. He submitted that the other co-accused namely Badsha and Anil have already been admitted to regular bail by this Court vide Annexure P-4 and P-5, respectively. He further submitted that although there are some other cases registered against the petitioner but the petitioner was falsely implicated in the present case only because of the pendency of the other cases against him and even otherwise also considering the long custody of the petitioner and in the light of the Article 21 of the Constitution of India, the petitioner may be considered for the grant of regular bail.

4. On the other hand, Ms. Harpreet Kaur, learned AAG, Haryana has submitted that it is correct that the petitioner has already faced incarceration for about 5 years and 9 months but has opposed the grant of bail to the petitioner on the ground that a direct role is attributable to the petitioner whereby he fired shot at the father of the complainant who was a teacher in a school and who died consequently. He submitted that considering the gravity of the offence and also the fact that the petitioner is involved in seven other cases and therefore the petitioner is not entitled for the grant of regular bail.

5. Mr. Shobit Phutela, learned counsel appearing on behalf of the complainant has also opposed the grant of bail to the petitioner on the ground that the offence involved in the present case is serious in nature and so far as the other co-accused who have already been granted regular bail by this Court are not at

parity with the present petitioner.

6. I have heard learned counsel for the parties.

7. In the present case the petitioner has already faced incarceration for about five years and nine months. The learned Juvenile Justice Board, Rohtak had directed the trial of the petitioner as an adult way back on 20.08.2018 and as per learned counsel for the parties, only three prosecution witnesses out of 48 have been examined. Furthermore, the complainant has already been examined. Although there are seven more cases against the petitioner but the long custody of the petitioner has to be considered for grant of bail to the petitioner. This Court is of the view that since the trial of the case is not progressing fast and the petitioner has already faced incarceration for about five years and nine months and the fact that the petitioner is also involved in seven more cases which cannot become a ground for denial of bail to the petitioner. Learned State counsel has pointed out that the injured and an eye witness are yet to be examined and therefore the petitioner should not be granted bail, also cannot become a ground for denial of bail to the petitioner considering the long custody of the petitioner.

8. In view of the aforesaid position and in the light of Article 21 of the Constitution of India, the petitioner deserves the concession of grant of regular bail. 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 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 merits of the case and is only meant for the purpose of

decision of the present petition.

(JASGURPREET SINGH PURI)
JUDGE

July 07, 2023
dinesh

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