

2023:PHHC:068903

215 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-15694-2023

Date of Decision: 12.05.2023

SUMIT ALIAS SUMMED

... PETITIONER

VS.

STATE OF HARYANA

.. RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr. Sandeep Saini, Advocate, for the petitioner.

Mr. Surinder Kumar Dagar, DAG, Haryana.

VIVEK PURI, J.(ORAL)

1. The petitioner is seeking regular bail in the case bearing FIR No. 185 dated 18.05.2016 under Sections 34, 120-B, 302 IPC and Section 25 of the Arms Act, registered at Police Station Kharkhoda, District Sonipat.

2. Custody certificate has been placed on record.

3. Learned counsel for the petitioner contends that the petitioner has not been named in the FIR and he is in custody for a period of 05 years, 09 months and 23 days. Hitesh @ Happy, co-accused, has been granted regular bail in terms of the order dated 21.12.2022 passed by the Coordinate Bench of this Court in CRM-M-52277-2022, Annexure P-5. He further submits that during the course of trial, the complainant has not supported the prosecution case.

4. Learned State counsel has opposed the bail application on the score that only one witness, who has been summoned on the application under Section 311 Cr.P.C. remain to be examined and furthermore, the petitioner is involved in other cases. It has also been submitted that Hitesh @ Happy was named in the FIR and the petitioner has been nominated in pursuance of his own disclosure statement when his arrest was effected in some other case.

5. It is significant to note that application under Section 311 Cr.P.C. was allowed by the learned trial Court as back as on 05.08.2022. Even, on the last date of hearing, it was submitted by the learned State counsel that only one prosecution witness remain to be examined and next date of hearing in the trial Court is 18.04.2023. Even today it has been submitted that the the service of said witness, who is an employee of Delhi Police, has not been effected. It is significant to note that Hitesh @ Happy has been named in the FIR and he has been granted regular bail by the Coordinate Bench of this Court. Perusal of the order dated 21.12.2022, Annexure P-5, indicates that he was also involved in 10 other cases including two cases under Section 302 IPC and four cases under Section 307 IPC. The petitioner is in custody for a period of 05 years, 09 months and 23 days. The trial is getting delayed and speedy trial is a constitutional right provided to an accused under Article 21 of the Constitution of India. Furthermore, the petitioner also becomes entitled to bail on the principle of parity as co-accused, Hitesh @ Happy, has been granted bail by the Coordinate Bench of this Court.

6. In such circumstances, sufficient grounds are made out to extend the concession of bail to the petitioner. Accordingly, without making any observation on the merits of the case, the present petition is allowed and petitioner is ordered to be released on bail, subject to his furnishing bail/surety bonds to the satisfaction of concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

12.05.2023
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(VIVEK PURI)
JUDGE

Whether speaking/reasoned
Whether Reportable

: Yes/No
: Yes/No