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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-19918-2023(O&M)
Date of Decision: 25.08.2023

Kamal @ Ludia

....Petitioner(s)

Versus

State of Haryana

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Sunil Saharan, Advocate, for the petitioner.

Ms. Harpreet Kaur, AAG, Haryana.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in FIR No.421 dated 30.10.2020, under Section 365 IPC (Sections 364, 302, 201, 148, 149 and 120-B IPC added later on), registered at Police Station Adampur, Hisar.

2. Learned counsel for the petitioner has submitted that the petitioner is in custody for 2 years, 9 months and 23 days and five witnesses have been examined. He submitted that the entire case is based upon circumstantial evidence and even otherwise also two witnesses namely, Aakash and Ajmal who had stated that the deceased namely Deepak @ Bachhi was taken away by some unknown persons and later on the dead body of the aforesaid deceased was found in a pit and the petitioner has been nominated purely on the basis of circumstantial evidence. He further submitted that one of the other co-accused namely Arun Kumar who was named by the aforesaid two eye witnesses has

already been extended the benefit of regular bail by this Court on 04.07.2023 and so far as the present petitioner is concerned, he was also named by the aforesaid Ajmal and therefore, he is exactly at parity with the aforesaid co-accused Arun Kumar who has been granted the benefit of regular bail by this Court. He further submitted that the two witnesses namely, Aakash and Ajmal have also turned hostile and they have not supported the prosecution version. He further submitted that even one of the other co-accused namely, Bajrang has also been extended the benefit of regular bail by this Court in CRM-M-39913-2023 on 22.08.2023. He submitted that in view of the aforesaid facts and circumstances and also considering the custody of the petitioner and the fact that the material witnesses stand examined, the petitioner may be considered for the grant of regular bail.

3. On the other hand, Ms. Harpreet Kaur, AAG, Haryana has submitted that it is correct that the petitioner is in custody for 2 years, 9 months and 23 days and it is also correct that the petitioner is at parity with the aforesaid co-accused namely Arun Kumar who has been extended the benefit of regular bail by this Court on 04.07.2023.

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

5. It is a case where the petitioner has already faced incarceration for 2 years, 9 months and 23 days. As per the learned counsel for the parties, all the material witnesses have been examined and two eye witnesses namely, Aakash and Ajmal have not supported the prosecution version and have turned hostile. The other co-accused namely Arun Kumar who is stated to be at parity with the petitioner has been extended the benefit of regular bail by this Court. Therefore, considering the aforesaid stage of the trial and also considering the custody of the petitioner which comes out to be 2 years, 9 months and 23

days, this Court deems it fit and proper to grant regular bail to the petitioner.

6. Consequently, the present petition is allowed. The petitioner shall be released on regular bail subject to furnishing bail bonds/surety to the satisfaction of the learned trial Court/Duty Magistrate concerned.

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

25.08.2023
rakesh

(JASGURPREET SINGH PURI)
JUDGE

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