

CRM-M-24321-2022

-1-

217

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-24321-2022
Decided on: 23.03.2023

Gurdeep Singh @ Soni

.... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Ms. Gurmeet Kaur, Advocate for
Mr. Rajesh Duhan, Advocate
for the petitioner.

Ms. Akshita Chauhan, DAG, Punjab.

JASGURPREET SINGH PURI, J. (ORAL)

The present is the second petition filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No.89 dated 06.10.2017, under Sections 302, 148, 149, 120-B of the IPC, registered at Police Station Banur, District Patiala.

It has been submitted by learned counsel for the petitioner that the petitioner is in custody since 08.10.2017 which is for about 5½ years and now all the material witnesses have been examined. She further submitted that earlier also the petitioner had filed a petition for grant of regular bail which was dismissed on 05.10.2021 and this Court had directed the trial Court to expedite the trial considering the long custody of the petitioner and also

CRM-M-24321-2022

-2-

directed to conclude the same as expeditiously as possible. She also submitted that thereafter about 1½ years has elapsed but no proper progress has been made in the trial and only few witnesses have been examined. She further submitted that all the co-accused have already been extended the benefit of regular bail and therefore, the petitioner may also be considered for grant of regular bail particularly in view of the aforesaid long custody of the petitioner.

On the other hand, Ms. Akshita Chauhan, DAG, Punjab, has submitted that it is correct that the petitioner is in custody for 5 years, 5 months and 11 days and 14 out of 33 witnesses have been examined. She further submitted that so far as the other co-accused, who has been extended the benefit of regular bail is concerned, the petitioner is not at parity with the aforesaid co-accused because in the present case as per the allegations, the petitioner was the prime accused and he cannot be said at parity with the other co-accused, and therefore, has opposed the grant of regular bail to the petitioner.

I have heard the learned counsel for the parties.

When the petitioner earlier filed a petition for grant of regular bail, the same was dismissed by this Court on 05.10.2021 but at the same time also directed the trial Court to expedite the trial and conclude the same as expeditiously as possible. In the present petition, a report was called from the concerned trial Court with regard to the status of the case and the same has been now received from the Court of Additional Sessions Judge, SAS, Nagar in which it has been so stated that now 14 prosecution witnesses have been examined out of total 33 cited prosecution witnesses. It has also been stated by

CRM-M-24321-2022

-3-

the Additional Sessions Judge that the present case was received by way of transfer to the Court on 02.12.2022 and the trial of the case was fixed for 20.03.2023 and one PW Charanjit Kaur was present but her testimony could not be recorded because the petitioner, who is in judicial custody was not produced physically or through video conferencing and the concerned Superintendent of Police (Headquarters), SAS Nagar was directed to provide necessary guards for production of the petitioner so that remaining prosecution evidence may be recorded. It is further so stated by the learned Additional Sessions Judge that he is making sincere and genuine efforts to expedite the trial of the case.

Although some more witnesses have been examined after the earlier dismissal of the bail petition but the report of Additional Sessions Judge would reveal that even on the last date of hearing because of non-production of the petitioner by the Jail Authorities, the witness could not be examined. Although all the other co-accused have been extended the benefit of regular bail and even if they are not at parity with the petitioner but the long custody of the petitioner which is almost 5½ years, deserves consideration.

After hearing learned counsel for the parties, this Court is of the considered view that considering the aforesaid facts and circumstances and without observing anything on the merits of the case, the petitioner deserves the concession of regular bail purely on the ground of long custody of the petitioner which is almost 5 ½ years.

Consequently, the present petition is allowed and the petitioner is ordered to be released on regular bail on furnishing bail bond/surety bond to

CRM-M-24321-2022

-4-

the satisfaction of the trial Court/Duty Magistrate concerned, if not required in any other case.

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.

23.03.2023

Bhumika

(JASGURPREET SINGH PURI)
JUDGE

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