

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

203

CRM-M-27677-2021 (O&M)

Date of decision: 30.01.2023

Sushil @ Malinga

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Deepanshu Matya, Advocate for the petitioner.

Mr. R.S. Budhwar, Addl. AG Haryana.

HARNARESH SINGH GILL, J. (ORAL)

The petitioner has filed this petition under Section 439 of Cr.P.C. for grant of regular bail in case FIR No. 90 dated 23.01.2019 registered under Sections 302, 34, 120-B IPC, Section 25/54//59 of the Arms Act, at Police Station Shivaji Nagar, District Gurugram.

State report filed on behalf of the respondent-State is already on record.

Learned counsel for the petitioner submits that the petitioner was not named in the FIR, he was indicted on the disclosure statement of co-accused Pawan @ Kali, who has already been enlarged on bail; that no test identification parade was conducted in the present case; that the alleged recovery of one country-made pistol along with 04 live cartridges and one revolver along with 04 live cartridges has already been effected from the petitioner; that the petitioner has been in custody since 25.04.2019; that there is no specific allegations against the petitioner; that co-accused Sumit @ Vinit @ Chintu was granted regular bail by this Court vide order dated 09.01.2020

and co-accused Manish, Pawan @ Kali, Sanjeet have already been granted concession of regular bail by the learned trial Court vide separate orders; that out of 45 prosecution witnesses, none has been examined so far and that as far as other cases are concerned, the petitioner is on bail in those cases.

Learned State counsel, while vehemently opposing the prayer for bail, submits that the petitioner has actively participated in the occurrence and he along with other co-accused committed the murder of Jaidev @ Jedi. One country-made pistol along with 04 live cartridges of 9 mm as well as one revolver .32 bore along with 04 live cartridges has been recovered from the petitioner. The petitioner is also involved in 08 other cases, including 03 cases registered under Section 307 IPC. The material witnesses are yet to be examined. However, he does not dispute the custody period of the petitioner and the fact that the petitioner was not named in the FIR, he was involved in the present case on the disclosure statement of co-accused Pawan @ Kali. He submits that out of 42 prosecution witnesses, none has been examined so far.

I have heard the learned counsel for the parties.

The petitioner has been in custody since 25.04.2019. The petitioner was indicted on the basis of disclosure statement of co-accused Pawan @ Kali, who has already been enlarged on bail. No test identification parade was carried out. The recovery has already been effected. In other cases, the petitioner is on bail. Co-accused are on bail. All 42 prosecution witnesses are yet to be examined. Therefore, the conclusion of the trial would take time. Hence, no useful purpose would be served by keeping the petitioner behind the bars.

In view of the above, without commenting anything on the merits, lest it should prejudice the case of either side, the petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the learned trial Court/Duty Magistrate.

(HARNARESH SINGH GILL)
JUDGE

30.01.2023
Mangal Singh

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No