

CRM-M-23903-2023

219

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-23903-2023
Date of Decision: 29.08.2023

Anup @ Chhalia Petitioner

Versus

State of Haryana Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Vishal Yadav, Advocate
for the petitioners.

Ms. Harpreet Kaur, AAG, Haryana.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present is a second petition filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case bearing FIR No.409 dated 10.09.2019, under Sections 148, 149, 302 & 307 IPC and Section 25 of the Arms Act, registered at Police Station Dabua, District Faridabad.

2. Learned counsel for the petitioner has submitted that it is a case where the allegations as contained in the FIR were that the complainant saw two persons, namely, Netra Pal and Banwari were beating his brother with iron rods and along with the aforesaid persons and some other persons were also present there and the allegations were that they were also beating his brother with iron rods and *dandas*. He further submitted that the main accused in the present case even as per the FIR were Netra Pal and Banwari and so far as the allegations against the petitioner and other similarly

situated co-accused are concerned, they were vague in nature. He also submitted that the petitioner has now faced incarceration for 3 years and 11 months and all the material witnesses including the complainant have already been examined and in fact 12 out of 27 cited witnesses have been examined. He further submitted that five more co-accused have already been extended the benefit of regular bail by a Co-ordinate Bench of this Court vide Annexures P-4 to P-8 and two of the co-accused, namely, Kailash @ Luttas and Daulat Ram, who have been granted regular bail by a Co-ordinate Bench of this Court, are exactly at parity with the present petitioner because the role attributable to them was also the same as that of the present petitioner and now considering the custody of the petitioner and the fact that all the material witnesses have already been examined, the petitioner may also be considered for the grant of regular bail.

3. On the other hand, Ms. Harpreet Kaur, learned AAG, Haryana has stated that it is correct that the petitioner is in custody for 3 years and 11 months and the other co-accused have been granted regular bail by a Co-ordinate Bench of this Court. She has however opposed the grant of regular bail to the petitioner on the ground that there was a recovery of pistol from the petitioner and he is also involved in one more case under the NDPS Act.

4. Mr. Jashan Sekhon, Advocate for Mr. Shiv Kumar, learned counsel for the complainant has also opposed the grant of regular bail to the petitioner on the ground that the petitioner was present at spot and direct role has been attributed to the petitioner to the extent that he has fired upon the complainant but it missed.

5. I have heard the learned counsels for the parties.

6. The allegations against the petitioner as per the FIR were with regard to the fact that he was also seen giving beatings with *dandas* and *lathis* along with the other co-accused to the deceased. However, during the course of investigation, it was found that the petitioner had fired a shot but it did not hit anybody. The petitioner is in custody for 3 years and 11 months and all the material witnesses including the complainant have already been examined. Five other co-accused have already been extended the benefit of regular bail by a Co-ordinate Bench of this Court vide Annexures P-4 to P-8. Two out of the aforesaid co-accused, namely, Kailash @ Luttas and Daulat Ram, who have been granted regular bail, are at parity with the present petitioner since the role attributed to the petitioner and the aforesaid two co-accused are the same. The mere fact that the petitioner is involved in one more case under the NDPS Act cannot become a ground for denial of bail to him.

7. Therefore, considering the long custody of the petitioner which is stated to be 3 years and 11 months and also considering the fact that all the material witnesses including the complainant have already been examined and that two similarly situated co-accused have already been granted the regular bail, this Court deems it fit and proper to grant regular bail to the petitioner.

8. Consequently, the present petition is allowed and the petitioner is ordered to be released on regular bail on furnishing bail bond/surety bond to the satisfaction of the trial Court/Duty Magistrate concerned, if not required in any other case.

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 present petition.

29.08.2023 (JASGURPREET SINGH PURI)
Bhumika JUDGE

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