

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

234

CRM-M-25540-2023 (O&M)
Date of decision: 31.07.2023

Ankush

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Akashdeep Singh, Advocate for the petitioner

Mr. B.S. Virk Sr. DAG Haryana

AMAN CHAUDHARY. J.

1. Prayer in the present petition filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in case FIR No.357 dated 07.10.2020, registered under Sections 302 and 34 IPC and Section 25 of Arms Act (Section 29 of Arms Act added in challan), at Police Station Gohana Sadar, District Sonapat.
2. Learned counsel contends that the petitioner is in custody for the last 2 years and 8 months. He alleges false implication. The case is based on circumstantial evidence, inasmuch as the deceased was stated to have been last seen with the petitioner and co-accused namely Ashish, who has been granted bail by this Court vide order dated 01.03.2023, Annexure P-7, after being in custody for 2 years, 4 months and 20 days. Charges were framed long ago on 07.04.2021, however, only 1 out of 21 prosecution witnesses, has been examined. Though, this Court on the last date of hearing recorded that the learned State counsel shall make efforts to examine the complainant, however, he has not been examined. Orders dated 26.07.2023 and 28.07.2023 have been produced in Court today to show that on 26.07.2023, the complainant though had appeared, however, made a statement of pain in abdomen and on the next date, he did not appear. He is intentionally

wanting to delay the trial. The petitioner is not involved in any other case.

3. Learned State counsel opposes the bail on the ground that on the disclosure statement of the petitioner, the weapon was recovered and the fatal injury was attributed to him. He is however unable to controvert the submissions with regard to custody, stage of the case, co-accused having been granted bail and the petitioner not involved in any other case.

4. In rebuttal, learned counsel for the petitioner submits that as per FSL, the alleged weapon recovered from the petitioner and the bullet did not match, nor did the empty shell that was recovered from the spot.

5. Heard.

6. Considering the facts and circumstances of the case, in particular that the petitioner is in custody for the last about 2 years and 8 months; not involved in any other case; co-accused has been granted bail; charges have been framed wayback on 07.04.2021, however, out of 21 prosecution witnesses, only 1 has yet been examined, the trial is likely to take a considerable time, thus his further incarceration would not serve any useful purpose, the present petition for grant of regular bail deserves to be allowed.

7. As a result, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate concerned and subject to his not being required in any other case. The petitioner shall abide by the following conditions:-

- (i) The petitioner will not tamper with the evidence during the trial.
- (ii) The petitioner will not pressurize/ intimidate the prosecution witnesses.
- (iii) The petitioner will appear before the trial Court on each

and every date fixed, unless is exempted by a specific order of Court.

- (iv) The petitioner shall not commit an offence similar to the offence of which, he is an accused, or for commission of which he is suspected of.
- (v) The petitioner shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/ her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.
- (vi) The petitioner shall not in any manner misuse his liberty.
- (vii) The petitioner shall furnish his address and mobile number to the Trial Court forthwith and shall not change the same till the conclusion of the trial and in case for any reason, the petitioner seeks to change any of the aforesaid, the same shall be done only with prior intimation to the learned Trial Court, stating the reason for the same.
- (viii) The petitioner shall not leave the country without prior permission of the trial Court.
- (ix) The trial Court/Duty Magistrate may impose any other condition, as deemed appropriate while releasing the petitioner.

8. It is made abundantly clear that in case there is any breach of the aforesaid conditions, the State shall be at liberty to seek cancellation of bail as granted to the petitioner by this order.

9. In view of the above, it is clarified that the observations made herein are limited for the purpose of present proceedings and would not be construed as an opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

(AMAN CHAUDHARY)
JUDGE

July 31, 2023
M.Kamra

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