

THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

238

CRM-M-26237 of 2023

Date of Decision:12.07.2023

Kamal

....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Shiv Kumar Rana, Advocate,
for the petitioner.

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 the grant of regular bail to the petitioner in FIR No.235 dated 05.06.2020, under Sections 148, 149, 302, 307, 323, 201, 120-B IPC and Section 25 of the Arms Act, registered at Police Station Purani Sabzi Mandi, District Rohtak.

2. It is submitted by learned counsel for the petitioner that the petitioner is in custody from 05.06.2020 which is about 3 years and 1 month. He submitted that it is the successive bail petition filed by the petitioner and earlier no prosecution witness was examined at the time when it was dismissed by this Court. He submitted that now there is a change of circumstance. Firstly, the custody of the petitioner is more than three years now and secondly, two material witnesses

including the complainant have been examined and therefore the present petition is maintainable. He also submitted that as per the prosecution story, the blood stained clothes recovered from the scooty were matched with the blood of the deceased but the said scooty did not belong to the petitioner nor the clothes belonged to the petitioner and the petitioner has been falsely implicated in the present case. He further submitted that be that as it may, the aforesaid factual position can be ascertained only at the time of trial and considering his long custody, he may be considered for the grant of regular bail.

3. Learned counsel for the petitioner has raised further plea by submitting that the petitioner is a M. Phil student and the petitioner has four sisters and old parents who are sick and considering the aforesaid position as well, he may be considered for the grant of regular bail.

4. On the other hand, Ms. Harpreet Kaur, learned AAG, Haryana has submitted that it is correct that the petitioner has already faced incarceration for more than three years and two prosecution witnesses including the complainant have already been examined. She also submitted that as per her instructions, the petitioner is not involved in any other case and has clean antecedents. She has however submitted that considering the gravity of the offence, the petitioner does not deserve the concession of regular bail.

5. I have heard learned counsel for the parties.

6. The petitioner has already faced incarceration for more than three years. As per learned counsel for the parties, the petitioner has clean antecedents and is not involved in any other case. The plea taken by learned State counsel that the clothes which were recovered from the scooty belonged to the petitioner and

were matched, it is a matter of evidence which can be seen at the time of trial. The custody period of the petitioner is long and only two prosecution witnesses have been examined till date.

7. Apart from the above, learned counsel for the petitioner also stated that the petitioner has four sisters and old parents are also sick. Therefore, considering the aforesaid totality of circumstances, this Court deems it fit and proper to grant regular bail to the petitioner. Consequently, the present petition is allowed. The petitioner shall be released on regular bail, if not required in any other case, subject to furnishing bail bonds/surety to the satisfaction of the learned trial Court/Duty Magistrate concerned.

8. 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 the present petition.

(JASGURPREET SINGH PURI)
JUDGE

July 12, 2023
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Whether speaking	:	Yes/No
Whether reportable	:	Yes/No