

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

209

CRM-M-32067 of 2021

Date of Decision:27.07.2023

Atul @ Annu

....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Rakesh Nehra, Sr. Advocate, with
Mr. Reetesh Kumar, Advocate,
for the petitioner.

Ms. Harpreet Kaur, AAG, Haryana

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No.159 dated 20.05.2017, under Sections 302, 148, 149, 449, 506 and 120-B IPC and Section 25 of the Arms Act, registered at Police Station Beri, District Jhajjar.

2. It is submitted by learned senior counsel for the petitioner that it is a case where the petitioner is in custody for five years and ten months and two days and till date not even a single prosecution witness has been examined. He submitted that the allegations against the petitioner and the other co-accused, namely, Ashwani were that both of them fired from a country made pistol upon the deceased but the FSL report shows that the empty cartridges which were recovered from the place of occurrence and the pellets which were recovered from the body

of the deceased were not fired from the same pistol. He further submitted that on the same ground the aforesaid co-accused, Ashwani has been extended the benefit of regular bail by a co-ordinate Bench of this Court in CRM-M-51458 of 2022 on 14.11.2022 and further submitted that in view of the aforesaid position considering the custody of the petitioner and stage of the trial wherein no prosecution witness has been examined and the fact that the other similarly situated co-accused, who is at parity with the present petitioner, has already been extended the benefit of regular bail, he may 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 has already faced incarceration for about five years and ten months and no prosecution witness has been examined till date. The other co-accused, namely, Ashwani, who is at parity with the present petitioner, has been extended the benefit of regular bail by a co-ordinate Bench of this Court. She has supplied a custody certificate of the petitioner which is taken on record. She has however submitted that as per the custody certificate since the petitioner is involved in number of cases as well, he is not entitled for the grant of regular bail.

4. I have heard learned counsel for the parties.

5. It is a case where the petitioner has already faced incarceration for about 5 years and 10 months and 2 days but till date no prosecution witness has been examined. The other co-accused, namely, Ashwani who is at parity with the petitioner, has already been granted bail by a co-ordinate Bench of this Court in CRM-M-51458 of 2022. Therefore, considering the aofresaid custody of the petitioner, stage of the trial and the fact that the other co-accused has already been

granted bail by a co-ordinate Bench of this Court, the petitioner deserves the concession of regular bail. 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.

6. 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 27, 2023

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