

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

214+216

CRM-M No.27175-2023
Date of Decision:21.07.2023

Tarun @ Tara

Versus

....Petitioner

State of Haryana

.....Respondent

2)
Akash @ Kaka

CRM-M-32041 of 2023

....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON’BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Stephan Masih, Advocate,
for the petitioner in CRM-M-27175 of 2023.

Mr. Deepender Singh, Advocate,
for the petitioner in CRM-M-32041 of 2023.

Ms. Harpreet Kaur, AAG, Haryana
(in CRM-M-27175 of 2023)

Mr. Vishal Kashyap, DAG, Haryana
(in CRM-M-32041 of 2023)

Mr. Rakesh Sobti, Advocate,
for the complainant.

JASGURPREET SINGH PURI, J. (Oral)

1. Both the cases are taken up together for final disposal with the consent of learned counsel for the parties since both the petitions arise out of the same FIR

and the prayer made in both the petitions are for the grant of regular bail.

2. This is a second petition (CRM-M-27175 of 2023) filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No.1194 dated 20.12.2017, under Sections 148, 149, 323, 379-B, 506 IPC and 25/54/59 of the Arms Act (Sections 302, 307 and 325 IPC added later on), registered at Police Station Saran, District Faridabad and this is a fourth petition (CRM-M-32041 of 2023) filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No.1194 dated 20.12.2017, under Sections 148, 149, 323, 379-B, 506 IPC and 25/54/59 of the Arms Act (Sections 302, 307 and 325 IPC added and Section 379-B IPC deleted later on), registered at the same police station in District Faridabad.

3. Mr. Stephan Masih, learned counsel appearing on behalf of the petitioner (in CRM-M-27175 of 2023) and Mr. Deepender Singh, learned counsel appearing on behalf of the petitioner (in CRM-M-32041 of 2023) have submitted that both the petitioners are in custody from 26.02.2018 which is about 5 years, 4 months and 23 days. Both learned counsel have submitted that it is a case where now 24 prosecution witnesses out of 27 have already been examined and now the prosecution has moved an application under Section 311 of the Code of Criminal Procedure for recalling of the witnesses. They have submitted that the petitioners are entitled for the grant of regular bail particularly in view of the long custody approximately 5½ years and in view of the fact that one of the other co-accused, namely, Ritik @ Rankit has already been enlarged on regular bail by a co-ordinate Bench of this Court on 16.05.2023 in CRM-M-23556 of 2023 (Annexure P-9 in CRM-M-32041 of 2023). They submitted that the role attributable to the aforesaid co-accused was inflicting of injuries by Danda and his name finds

mentioned in the FIR at the first instance. However, so far as the present two petitioners are concerned, they were not named in the FIR and their names were nominated on the basis of the disclosure statement of the co-accused. They further submitted that even as per the prosecution, the role attributable to the petitioner, namely, Tarun @ Tara was with regard to giving of danda blow and with respect to the petitioner, namely, Akash @ Kaka with regard to giving a baseball bat blow and therefore considering the facts and circumstances of the present case, both the petitioners are at parity with the aforesaid co-accused, namely, Ritik @ Rankit who has already been granted regular bail by a co-ordinate Bench of this Court. They also submitted that now since an application under Section 311 of the Code of Criminal Procedure has been moved which has been allowed, the trial of the case may take long time and both the petitioners have already faced incarceration for about 5½ years, may be considered for the grant of regular bail.

4. On the other hand, Ms. Harpreet Kaur, learned AAG, Haryana (in CRM-M-27175-2023) and Mr. Vishal Kashyap, learned DAG, Haryana (in CRM-M-32041 of 2023) have stated that so far as the period of custody of both the petitioners is concerned, the same is not in dispute and it is also not in dispute that the co-accused, namely, Ritik @ Rankit has already been granted regular bail by a co-ordinate Bench of this Court and both the petitioners are at parity with him. They however opposed the grant of bail to both the petitioners on the ground that the matter is serious in nature.

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

6. It is a case where both the petitioners have already faced incarceration for about 5½ years and as per learned counsel for the parties, 24 prosecution witnesses out of 27 have already been examined and now an application moved by

the prosecution under Section 311 of the Code of Criminal Procedure for re-examination of the prosecution witnesses has been allowed and therefore the trial of the case may take long time. Apart from the above, it has been so stated by learned counsel for the parties that the similarly situated co-accused, namely, Ritik @ Rankit, who is at parity with both the petitioners, has already been granted bail by a co-ordinate Bench of this Court vide Annexure P-9. Therefore, considering the aforesaid totality of facts and circumstances of the present case, especially considering the long custody of the petitioners, this Court deems it fit and proper to grant regular bail to both the petitioners. Consequently, both the petitions are allowed. The petitioners shall be released on regular bail subject to furnishing bail bonds/surety to the satisfaction of the learned trial Court/Duty Magistrate concerned.

7. 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 both these petitions.

(JASGURPREET SINGH PURI)
JUDGE

July 21, 2023
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Whether speaking	:	Yes/No
Whether reportable	:	Yes/No