

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

220

CRM-M-35823-2022 (O&M)

Date of decision: 06.09.2023

Tayyab

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Rajiv Kumar Doon, 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.216 dated 23.03.2021, registered under Section 302 IPC, at Police Station Rai, District Sonipat.

2. Learned counsel contends that the petitioner is in custody for 2 years and 4 months. It is a case of circumstantial evidence. The petitioner was not named in the FIR. His name surfaced based on a supplementary statement of the father of the deceased, Chhote Hussain recorded on the next day of the incident stating therein that he was informed by someone that the petitioner was seen coming out of the plot of the deceased where his body was found. There is no evidence to connect the petitioner with the alleged incident. Charges have been framed on 20.05.2022, however, out of 18 prosecution witnesses, none have been examined. The order dated 29.08.2023 passed by the trial Court has been produced, reflecting therein that PW Chhote Hussain and Salim did not turn up,

despite service of warrants of arrest and they have now been again summoned through warrants of arrest for 23.10.2023. The petitioner is not involved in any other case under IPC.

3. Learned State counsel opposes the bail on the ground that the father of deceased in his supplementary statement had specifically named the petitioner of having committed the alleged offence and recovery of mobile of the deceased has been effected from him. He is however unable to controvert the submissions with regard to custody and the petitioner being not involved in any other case under IPC.

4. Heard.

5. Considering the facts and circumstances of the case, in particular that the petitioner is in custody for the last 2 years and 4 months; not involved in any other case; charges stand framed way back on 20.05.2022, however, out of 18 prosecution witnesses, none has been examined so far, 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.

6. 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.

7. 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.

8. 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

September 06, 2023
M.Kamra

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