

CRM-M-31752-2023

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-31752-2023
Date of Decision: 05.09.2023

Mahender @ Mahendar Petitioner

Versus

State of Haryana Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Baljeet Beniwal, Advocate
for the petitioner.

Mr. Naveen Kumar Sheoran, DAG, Haryana.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present is a second petition filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case bearing FIR No.12 dated 18.01.2019, under Sections 302, 201 & 34 IPC and Section 25 of the Arms Act, registered at Police Station DLF, Phase-1, Gurugram, District Gurugram.

2. Learned counsel for the petitioner has submitted that the petitioner is in custody since 01.03.2019, which is almost 4½ years and the material witnesses including the complainant have already been examined and the complainant has not supported the prosecution version at the time of deposition. He further submitted that even otherwise also as per the allegations, the complainant, who was the only eye-witness, had lodged the FIR with regard to killing of one Seema and she was shot by another co-accused, namely, Sandeep and so far as the role of the present petitioner is

concerned, he is a friend of the aforesaid Sandeep and was only driving the car, but no overt act has been attributable to the present petitioner. He submitted that in view of the aforesaid facts and circumstances especially considering the long custody of the petitioner, he may be considered for the grant of regular bail.

3. On the other hand, Mr. Naveen Kumar Sheoran, learned DAG, Haryana has stated that it is correct that the petitioner is in custody for almost 4½ years and now 9 witnesses have been examined including the complainant and the complainant, who was an eye-witness, has not supported the prosecution version. He has however opposed the grant of regular bail to the petitioner on the ground that the petitioner was actively involved in the offence although the firing was not done by him but he was also in possession of one pistol which he had thrown.

4. I have heard the learned counsels for the parties.

5. The petitioner has faced incarceration for almost 4½ years and 9 witnesses including the complainant have already been examined. As per the learned counsel for the parties, the complainant, who was the only eye-witness in the present case, has not supported the prosecution version. The role attributable to the petitioner as per the prosecution was that he was driving the car and the other co-accused, namely, Sandeep had fired shot to the deceased. Therefore, considering the aforesaid facts and circumstances especially considering the long custody of the petitioner which is stated to be 4½ years, this Court deems it fit and proper to grant regular bail to the petitioner.

6. Consequently, the present petition is allowed and the petitioner

is ordered to be released on regular bail on furnishing bail bond/surety bond to the satisfaction of the trial Court/Duty Magistrate concerned, if not required in any other case.

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 present petition.

05.09.2023 (JASGURPREET SINGH PURI)
Bhumika JUDGE

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| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |