

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

223

CRM-M-37320-2023 (O&M)

Date of decision: 08.08.2023

Om Parkash

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Sumit Sangwan, Advocate for the petitioner

Mr. Baljinder Singh Virk, Sr. DAG Haryana

AMAN CHAUDHARY, J.

1. Prayer in the present petition filed under Section 439 Cr.P.C. is for the grant of regular bail to the petitioner in case FIR No.385 dated 17.10.2019, registered under Sections 147, 148, 149, 302, 342, 365 IPC (Sections 120-B and 452 IPC added later on) at Police Station Dadri Sadar, District Charkhi Dadri.
2. Learned counsel contends that the first petition that was filed by the petitioner was withdrawn on 19.01.2023 (Annexure P-7), with liberty to file fresh bail application before the trial Court under changed circumstances, for which permission was granted, however, the same was dismissed by the trial Court vide order dated 26.07.2023 (Annexure P-2). The petitioner is in custody for 3 years and about 6 months, having been arrested on 19.02.2020. Though he was named in the FIR, however, no specific role was attributed to him, as was in the case of co-accused Ajay, son of the petitioner, who has been granted bail by this Court vide order dated 17.07.2023 (Annexure P-10). It was a case of matrimonial dispute

between the niece of the petitioner and the deceased, on account of which, the petitioner has been implicated. The complainant, who is also an eyewitness, was examined, whereafter an application under Section 319 CrPC was filed by the prosecution to summon additional accused, who was kept in column No.2. The said application has now been decided and one more accused namely Anita, wife of the deceased has also been summoned. The prosecution evidence is to recommence now. In all there are 36 witnesses. Similarly situated co-accused Anirudh @ Rinku, Bablu, Arvind @ Sonu and Ravi @ Sonu had been granted regular bail by this Court vide orders dated 12.10.2021 (Annexure P-3), 10.12.2021 (Annexure P-4), 08.02.2022 (Annexure P-5) and 08.02.2022 respectively after being in custody for 1 year and 11 months, 2 years, 5 months and 25 days and 5 months and 25 days respectively. The petitioner is not involved in any other case.

3. The custody certificate dated 07.08.2023 filed by learned State counsel is taken on record, as per the same, the petitioner is behind bars for 3 years 5 months and 10 days.

4. Learned State counsel opposes the bail on the ground that petitioner had actively participated in the commission of the offence. He is however unable to controvert the submissions regarding the stage of the case, co-accused have been granted bail and petitioner being not involved in any other case.

5. Heard.

6. Considering the facts and circumstances of the case, in particular that the petitioner is in custody for 3 years 5 months and 10 days; not involved in any other case; co-accused have been granted bail; prosecution evidence is yet to re-

commence; there are a total of 36 prosecution witnesses; the trial is likely to take considerable time and thus his further incarceration would not serve any useful purpose, as such the present petition for grant of regular bail deserves to be allowed.

7. 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 him 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.

8. 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.

9. 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

08.08.2023
S.Sharma(syr)

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