

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

CRM-M-44131-2022

Reserved on : 16.01.2023

Date of decision : 20.01.2023

Yaduvender Singh

.....Petitioner

Vs.

State of Haryana

.....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. D.S. Matya, Advocate for the petitioner.

Ms. Vibha Tiwari, AAG, Haryana.

ALKA SARIN, J.

This is the second petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.606 dated 24.11.2019 under Sections 302, 392, 201, 120-B, 34 of the Indian Penal Code, 1860 (IPC) registered at Police Station Pataudi, District Gurugram. The first petition [CRM-M-39598-2020] was dismissed as withdrawn on 22.01.2021.

Learned counsel for the petitioner would contend that the petitioner has been in custody for a period of almost 3 years and 2 months. It is further the contention that the entire case is based on circumstantial evidence. It is the case set up by the Prosecution that the petitioner herein along with co-accused - Vikas and Kapil - hired the taxi of the deceased

and took him to Pataudi. Thereafter, in pursuance of the conspiracy to rob the deceased Yusuf of his car, they beat him and the petitioner caught the hands of the deceased Yusuf, the co-accused Vikas caught the legs and the co-accused Kapil strangled the deceased Yusuf. Learned counsel for the petitioner would contend that the similarly situated co-accused Vikas, who is stated to have caught the legs of the deceased, was granted bail by this Court vide order dated 06.09.2022 passed in CRM-M-34164-2022 and the similarly situated co-accused Kapil, who is alleged to have strangled the deceased, was granted bail by this Court vide order dated 15.11.2022 passed in CRM-M-44175-2022. It is further the contention that there is no other case pending against the petitioner. Learned counsel for the petitioner would further contend that the petitioner has clean antecedents and that out of 31 witnesses, only 14 have been examined. It is further the contention that the complainant has not named the petitioner in his statement which has since been recorded.

Per contra, learned counsel for the State is not in a position to deny that the petitioner has been in custody for a period of 3 years and 2 months. She is also not in a position to deny that the similarly situated co-accused - Vikas and Kapil - were granted bail by this Court vide order dated 06.09.2022 passed in CRM-M-34164-2022 and order dated 15.11.2022 passed in CRM-M-44175-2022, respectively. She is also not in a position to deny that out of 31 witnesses, only 14 have been examined and that there is no other case pending against the petitioner.

Heard.

In the present case, the petitioner has been in custody now for a period of 3 years and 2 months. There is no other case pending against

the petitioner. The similarly situated co-accused - Vikas and Kapil - have been granted bail by this Court vide order dated 06.09.2022 passed in CRM-M-34164-2022 and order dated 15.11.2022 passed in CRM-M-44175-2022, respectively. The complainant and the other material witnesses have since been examined. The complainant is stated not to have named the petitioner in his statement. Out of 31 witnesses, only 14 have been examined. Keeping in view the totality of circumstances especially in view of the period of incarceration and the fact that the trial is likely to take some time to conclude and without commenting on the merits of the case, I deem it appropriate to extend the benefit of regular bail to the petitioner. The petitioner is directed to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the Illaqa Magistrate/Duty Magistrate/Trial Court concerned.

However, the Prosecution will always be at liberty to apply for cancellation of bail in case the petitioner is found to be misusing the concession of bail in any manner.

It is also made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

Disposed off, accordingly. Pending applications, if any, also stand disposed off.

20.01.2023

Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Yes/No
Whether reportable: Yes/No