

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

209

CRM-M-49992 of 2022
Date of Decision:27.01.2023

Jitender Dhankar @ Jeetu

....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Aditya Jain, Advocate, and
Mr. Randeep S. Dhull, Advocate,
for the petitioner.

Ms. Nidhi Garg, AAG, Haryana

Mr. Sandeep Gehlawat, Advocate, for the complainant.

JASGURPREET SINGH PURI, J. (Oral)

The present petition has been filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No.38 dated 16.03.2022, under Sections 306, 34, 384, 389 IPC, registered at Police Station GRP Faridabad, District GRP Ambala Cantt.

It has been submitted by the learned counsel for the petitioner that the petitioner is in custody from 15.04.2022, which is almost nine months. He submitted that the petitioner has clean antecedents and is not involved in any other case. He submitted that as per the allegations contained in the FIR, the petitioner and the deceased had good relations with each other being neighbours. As per the allegation, the petitioner is a financier and there was one girl who used to work with the petitioner in his office and the petitioner called deceased Naresh Kumar in

his office and introduced the aforesaid girl. She demanded some obscene photographs from the deceased Naresh Kumar and he had shared his obscene photographs through video call but thereafter the aforesaid girl started blackmailing the deceased on the basis of those obscene photographs. Thereafter, the deceased paid an amount of Rs.3,00,000/- by way of a cheque and Rs.4,00,000/- in cash to the petitioner because there was a blackmailing of his deceased son. He submitted that in the present case earlier he had filed a bail petition before this Court which was dismissed as withdrawn at that stage vide Annexure P-12 on 27.07.2022 since the learned State counsel had made a statement that the charges have not been framed till date and no prosecution witness was examined. He submitted that now the charges have been framed on 21.10.2022 and the learned trial Court has adjourned the case for 06.03.2023 which is almost five months. He submitted that in this way the petitioner has already faced incarceration for about nine months and no useful purpose would be served by further detaining the present petitioner behind the bars in view of the aforesaid facts and circumstances.

Learned counsel further submitted that even as per the prosecution case, the ingredients of Section 306 read with Section 107 IPC are not fulfilled as there is no allegation with regard to immediate incitement to commit suicide.

On the other hand, Ms. Nidhi Garg, learned AAG, Haryana has submitted that it is correct that the petitioner is in custody from 15.04.2022 and he is not involved in any other case and investigation of the present case has already been completed and now the charges have been framed by the learned trial Court.

Mr. Sandeep Gehlawat, learned counsel appearing on behalf of the

complainant has also opposed the grant of bail to the petitioner on the ground that there is an apprehension of influencing the prosecution witnesses in case the petitioner is released on bail.

I have heard the learned counsel for the parties.

The petitioner has already faced incarceration for about nine months and now the charges in the present case have been framed on 21.10.2022. The petitioner is stated to be not involved in any other case even as per learned State counsel. The ingredients of aforesaid provision of Sections 306 and 107 IPC which are to be considered at the time of trial but for the purpose of consideration of grant of bail, the period of incarceration of the petitioner can be considered at this stage.

The argument raised by the learned counsel for the complainant that there is an apprehension that the petitioner may influence the witnesses, cannot become a bar for grant of bail to the petitioner since during the course of arguments, a specific query was put to the learned counsel for the complainant as to on what basis and on what material his apprehension is based but he was not able to answer the query of the Court as there was no material available. Furthermore, such an apprehension has not been raised by the learned State counsel nor it is a case of the learned State counsel that in case the petitioner is released on bail, then he may abscond from justice or influence any witness or tamper with any evidence.

In view of the aforesaid facts and circumstances, this Court deems it fit and proper to grant the concession of regular bail to the petitioner. Consequently, the present petition is allowed. The petitioner shall be released on regular bail, if not required in any other case subject to furnishing bail

bonds/surety to the satisfaction of the learned trial Court/Duty Magistrate concerned.

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 the present petition.

(JASGURPREET SINGH PURI)
JUDGE

January 27, 2023
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Whether speaking	:	Yes/No
Whether reportable	:	Yes/No