

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-50639-2022 (O&M)

Date of Decision: 05.07.2023

Deepak Khanna @ Tushar Khanna

....Petitioner(s)

Versus

State of Punjab

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Ravinder Bangar, Advocate, for the petitioner.

Mr. Rajiv Verma, DAG, Punjab.

JASGURPREET SINGH PURI, J. (Oral)

1. The present is a third petition filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in FIR No.46 dated 27.03.2015, under Sections 392,382,412, 465,467,468,469,471, 120-B IPC and Section 25 of Arms Act, registered at Police Station Urban Estate, District Patiala.

2. Learned counsel for the petitioner has submitted that the petitioner has faced incarceration for 2 years, 9 months and 14 days and submitted that although this is a third successive bail petition and earlier bail petitions were dismissed on merits but now considering the long custody of the petitioner which is 2 years and 9 months, he may be considered for the grant of regular bail.

3. Learned counsel has further relied upon Annexure A-1 and has brought to the notice of this Court that the petitioner was earlier declared as a proclaimed offender in the present case and was subsequently arrested and in

this way, the trial has not commenced qua him earlier and it had commenced qua the other co-accused who have since been acquitted vide judgment dated 18.11.2019. He submitted that thereafter when the petitioner was arrested, then the trial is commencing qua the petitioner. He submitted when the earlier bail petition was filed, at that point of time the custody of the petitioner was 1 year and 10 months and this Court had dismissed the bail petition on two grounds. Firstly that the petitioner had remained as a proclaimed offender for about six years and secondly that the State had expressed apprehension that in case the petitioner is released on bail, then he may again abscond and may also repeat the offence considering the antecedents of the petitioner. He submitted that now the custody of the petitioner is very large which is 2 years and 9 months and although the petitioner is involved in number of other cases but the pendency of the other cases against the petitioner cannot become a ground for denial of bail to the petitioner in view of the long custody and has pressed for the grant of regular bail purely on the basis of long custody of the petitioner.

3. On the other hand, Mr. Rajiv Verma, DAG, Punjab has opposed the grant of bail on the ground that earlier also the bail petition of the petitioner was dismissed since he had remained as a proclaimed offender for six years. He submitted that now in case the petitioner is released on bail, then he may again abscond. So far as some of the other co-accused are concerned, they have since been acquitted.

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

5. A perusal of the order of the acquittal would show that it has also been observed that nothing was recovered in the present case from the possession of any of the accused and no other overt act has been brought on

record to have been committed by them. Although the petitioner had remained proclaimed offender for six years and ordinarily the petitioner would not be entitled for the grant of regular bail, more so, when earlier also his bail petition was dismissed on the same grounds but as of today his custody is too large which is 2 years, 9 months and 14 days and therefore, this Court is of the view that purely on the basis of the long custody of the petitioner, he is entitled for the grant of regular bail.

6. Consequently, the present petition is allowed. The petitioner shall be released on regular bail subject to furnishing bail bonds/surety to the satisfaction of the learned 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 meant for the purpose of deciding the present petition only.

05.07.2023

rakesh

Whether speaking
Whether reportable

(JASGURPREET SINGH PURI)
JUDGE

: Yes/No
: Yes/No