

CRM-M-50129 of 2023

2023:PHHC:141892

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(203)

CRM-M-50129 of 2023

Date of Decision : 07.11.2023

Vikas Misra alias Vicky

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Sumit Sangwan, Advocate for the petitioner.

Mr. Saurabh Mohunta, Deputy Advocate General, Haryana.

Harsimran Singh Sethi J. (Oral)

Reply by way of affidavit of Subhash Chander, HPS DSP, Charkhi Dadri has been filed on behalf of the respondents. The same is taken on record.

The present petition has been filed for the grant of regular bail to the petitioner in case FIR No. 494 dated 12.12.2016, registered under Sections 201, 302, 435, 34 IPC and Section 25 of the Arms Act, 1959 at Police Station Dadri Sadar, District Bhiwani.

Learned counsel for the petitioner argues that the petitioner was arrested in June, 2019 but has been granted the medical bail keeping in view the fact that he is HIV positive.

It may be noticed that the petitioner filed a bail on health ground and upon medical examination, the Board of Doctors opined that

the petitioner can be very well treated within the jail premises and after which report, the said bail petition was withdrawn with liberty to file a bail application on merits. The present petition has been filed seeking the grant of regular bail.

Learned counsel for the petitioner argues that initially in the present case, an untrace report was submitted, which was not accepted and thereafter, on the basis of the disclosure statement of one of the co-accused, namely, Vinod, the petitioner was arrayed as an accused. Learned counsel submits that except the confessional statement, there is no other evidence, which has come on record to support the allegations alleged against the petitioner. Learned counsel submits that as of now, out of the total 33 witnesses, only 11 witnesses have been examined, hence, as the trial is likely to take some time before it concludes, the petitioner may kindly be granted the concession of regular bail, especially when the petitioner has already undergone incarceration for a period of more than three years and three months.

Notice of motion.

Mr. Saurabh Mohunta, learned Deputy Advocate General, Haryana, keeping in view the service of advance copy of petition, accepts notice on behalf of the respondent-State.

Learned State counsel submits that in fact, the petitioner is the main person, who had given the identity of the deceased to the other co-accused so as to extract money from the deceased Doctor. Learned State counsel submits that the petitioner being a patient, knew the Doctor and a plan was prepared to kidnap the Doctor so as to extract ransom

from him but once, the Doctor refused to give the ransom, he was brutally murdered. Learned State counsel further submits that release of the petitioner at this stage, will be detrimental to the trial, especially when the petitioner was involved in two other cases.

Learned counsel for the petitioner submits that in the two other cases, which are being referred by the learned State counsel, he has already been acquitted and the petitioner is only being tried qua the allegations mentioned in the present FIR.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

The petitioner is HIV positive and has already undergone custody of approximately three years and three months and even as of now the status of the trial that out of 33 cited witnesses, only 11 witnesses have been examined and the trial is likely to take some time before it concludes. No evidence has been brought to the notice of this Court except the confessional statement of the petitioner, which has come on record against the petitioner qua the allegations alleged. As the trial is likely to take some time before it concludes and the petitioner has already undergone custody of three years and three months coupled with the fact that the petitioner is HIV positive because of which, he has been granted interim bail earlier, the petitioner has made out a case for the grant of regular bail, especially when in the other two cases being alleged against the petitioner, he is already acquitted.

Learned counsel for the petitioner has undertaken before this Court that the petitioner will not influence the trial in any manner and

will maintain good conduct, if he is granted bail. In case of default of the undertaking, the State will be at liberty to approach this Court for passing appropriate orders.

The petitioner is directed to be released on regular bail in this case subject to the satisfaction of the trial Court/Duty Magistrate concerned.

However, it is made clear that anything observed herein shall not be construed to be an expression of any opinion on the merits of the case.

November 7th, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No