

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

CRM-M-53544 of 2022

Date of decision: 24th January, 2023

Yudhvir Singh @ Chhota Dholi

Petitioner

Versus

State of Punjab

Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Ms. Amrinder Kaur, Advocate for the petitioner.
Mr. I. S. Mann, DAG, Punjab

AVNEESH JHINGAN, J (Oral):

This is a petition seeking regular bail in FIR No. 409 dated 28.9.2020, under Sections 302, 459, 325, 323, 506, 148, 149, 120-B IPC, registered at Police Station City Barnala.

Learned counsel for the petitioner claims parity with co-accused Harjinder Singh @ Kamal Singh @ Dodhi who was granted bail by this Court on 20.1.2023 in CRM-M-5270 of 2022.

On 20.1.2023, this court passed the following order:

“The instant petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No. 409 dated 28.9.2020 under Sections 302, 148, 149, 120-B IPC (Sections 459,325,323 and 506 of IPC added later on), registered at Police Station City Barnala, District Punjab.

Learned counsel for the petitioner while inviting the attention of this court to the FIR in question, submits that though the petitioner was named therein, however, the only attribution qua him was of inflicting simple injuries with a Danda on the deceased and a witness Sukhpreet Singh. He

submits that the fatal injuries inflicted on the deceased Malkit Singh have been attributed to co-accused Gulab Singh @ Gagga with a sword and not to the petitioner. Learned counsel still further submits that the petitioner has now been in custody since 30.9.2020 and there is no likelihood of the trial concluding in the near future as none of the 27 prosecution witnesses cited have been examined so far. He further submits that since the investigation is complete and charges stand framed, further incarceration of the petitioner in the above circumstances would serve no useful purpose.

Per contra, learned State counsel while opposing the prayer made by the counsel opposite has not been able to dispute the factual aspect of the submissions made qua the role and injury attributed to the petitioner in the crime in question. Learned State counsel on instructions from ASI Karamjit Singh has apprised the court that co-accused Dimple Singh, who too allegedly participated in the crime in question was extended the concession of bail by this court vide order dated 20.9.2022.

On a pointed query put to the learned State counsel qua the antecedents of the petitioner, he on instructions has apprised the court that the petitioner has no criminal antecedents.

Heard learned counsel for the parties and perused the relevant material available on record.

In the facts and circumstances as enumerated hereinabove coupled with the fact that the petitioner has been in custody for more than two years having been arrested on 30.9.2020, there is no likelihood of the trial concluding in the near future as prosecution evidence is yet to commence, this Court deems it fit to extend the concession of bail to the petitioner. Accordingly, the present petition is allowed. The petitioner be admitted to bail to the satisfaction to the trial court/Duty Magistrate concerned. However, it is made clear that anything observed hereinabove shall not be construed to

be an expression of opinion on the merits of the case.”

Learned counsel for the State though opposes the prayer for grant of bail, he is not disputing that the role of the petitioner was similar to that of the co-accused and the petitioner is at parity so far as grant of bail is concerned.

Without commenting on the merits of the case and on the basis of parity of the petitioner with the co-accused so far as grant of bail is concerned, the petitioner is granted bail subject to her furnishing bail bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

The petition is allowed.

It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

[AVNEESH JHINGAN]
JUDGE

24th January, 2023
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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |