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IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M-51897-2023  
Date of decision: 12.12.2023

SANJAY @ JHANDU

...Petitioner

VERSUS

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Sahil Gupta, Advocate  
for the petitioner.

Mr. Vijesh Sharma, Addl. A.G., Haryana.

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**JASGURPREET SINGH PURI, J. (Oral)**

1. The present is a second petition filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No.52 dated 22.03.2019, under Sections 201, 202, 302 and 34 of the IPC, registered at Police Station Hansi Sadar, District Hisar, Haryana.

2. Learned counsel for the petitioner submitted that the petitioner is in custody for about 4 years, 8 months and 16 days and it is a case where as per the allegations, the dead body of one Bhim Singh was found in a pond of the village and the FIR was lodged against some unknown persons. He further submitted that after about two days, statement of one Anil, who is the brother of the deceased was recorded in which he stated that the deceased was in company of the petitioner and four other persons. He also submitted that the entire case is based upon circumstantial evidence and last seen theory. He further submitted

that the other co-accused, namely, Sonu alias Chota and Manjeet have already been extended the benefit of regular bail by this Court and by a Coordinate Bench of this Court, respectively. He further submitted that other two co-accused, namely, Ashok and Pardeep have also been granted bail by the learned trial Court vide Annexure P-6. He further submitted that even otherwise also, 16 prosecution witnesses have been examined out of total cited 24 prosecution witnesses and the petitioner is exactly at parity with the aforesaid co-accused, who have already been granted the benefit of regular bail as aforesaid.

3. On the other hand, Mr. Vijesh Sharma, Addl. A.G., Haryana submitted that the petitioner is in custody for 4 years, 8 months and 16 days and now 16 prosecution witnesses have been examined. So far as the parity of the petitioner with the aforesaid co-accused is concerned, he submitted that the petitioner is not at parity because the other co-accused had caught hold of the deceased, whereas the petitioner had hit on the head of the deceased and the cause of death is also stated to be head injury.

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

5. Even if the petitioner is not at parity with the aforesaid co-accused but as per the learned counsel for the parties, the petitioner has already faced incarceration for 4 years, 8 months and 16 days and the present is a case which is based upon last seen theory. Therefore, this Court is of the view that considering the aforesaid custody of the petitioner, the petitioner deserves the concession of regular bail.

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

7. However, anything observed hereinabove shall not be treated as an expression of opinion on the merits of the case and is meant for the purpose of deciding the present petition only.

12.12.2023  
Chetan Thakur

(JASGURPREET SINGH PURI)  
JUDGE

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No