

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

(219)

CRM-M-53161-2023

Date of decision: - 02.11.2023

Amit alias Mita**....Petitioner****Versus****State of Haryana****.....Respondent****CORAM : HON'BLE MR. JUSTICE VIKAS BAHL**

Present:- Mr. Kamal Sharma, Advocate,
for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryana.

VIKAS BAHL, J. (ORAL)

1. This is the second petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No.393 dated 01.11.2020, registered under Sections 148, 149, 302, 341, 427 of the Indian Penal Code, 1860 at Police Station Sadar Gohana, District Sonapat.

2. Learned counsel for the petitioner has submitted that the petitioner has been in custody since 08.11.2020 (more than 2 years and 11 months) and the investigation is complete and challan has been presented and there are 20 prosecution witnesses, out of which, only two have been examined and thus, trial is likely to take time. It is further submitted that the first bail application of the petitioner was withdrawn on 29.07.2022 with a direction to the trial Court to expedite the trial, but despite the said order, the trial has not made much progress, thus, entitling the petitioner to file the present second petition seeking regular bail. It is further

submitted that the petitioner is not involved in any other case and as per the FIR, no specific injury has been attributed to the petitioner. It is also submitted that co-accused, namely, Mohit @ Baru, against whom the allegations are similar to the allegations made against the petitioner, has been granted the concession of regular bail by a Co-ordinate Bench of this Court, vide order dated 10.10.2023 passed in CRM-M-59314-2022 after the custody period of 2 years and 11 months, which was lesser than the custody of the present petitioner. It is stated that initially some of the persons were declared innocent and were summoned under Section 319 Cr.P.C. and consequently were granted the concession of anticipatory bail. It is contended that from the above-said co-accused/Mohit @ Baru, the recovery of one '*danda*' of the axe was shown to be recovered.

3. Learned State counsel, on the other hand, has opposed the present petition for grant of regular bail and has submitted that the petitioner alongwith co-accused-Mohit @ Baru had a motive to cause injury to the deceased and a '*danda*' has also been recovered from the present petitioner. The other facts however have not been disputed by learned State counsel.

4. This Court has heard the learned counsel for the parties and has perused the paper book.

5. Keeping in view the above said facts and circumstances, moreso, the fact that the petitioner has been in custody since 08.11.2020 (more than 2 years and 11 months) and the investigation is complete and challan has been presented and out of total 20 prosecution witnesses, only 2 have been examined and also the fact that the petitioner is not involved in any other case and as per the FIR, no specific injury has been attributed

to the petitioner and the fact that the case of the petitioner is also on similar footing as that of co-accused, namely, Mohit @ Baru, who has been granted the concession of regular bail by a Co-ordinate Bench of this Court, vide order dated 10.10.2023 passed in CRM-M-59314-2022 after the custody period of 2 years and 11 months, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail / surety bonds to the satisfaction of the concerned trial Court/ Duty Magistrate, subject to him not being required in any other case.

6. However, it is made clear that in case, the petitioner indulges in criminal activities in the future or if any act is done by the petitioner to threaten or influence the complainant or any of the witnesses, then it would be open to the State to move an application for cancellation of bail granted to the petitioner.

7. Nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

November 02, 2023

naresh.k

**(VIKAS BAHL)
JUDGE**

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No