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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-56441-2022 (O&M)

Date of Decision: 07.02.2023

PANKAJ GUPTA

....Petitioner(s)

Versus

STATE OF HARYANA

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. S.P.S. Khaira, Advocate, for the petitioner.

Ms. Nidhi Garg, AAG, Haryana.

JASGURPREET SINGH PURI, J. (Oral)

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. 18 dated 31.01.2017, under Sections 323, 406, 420, 467, 468, 471, 506 and 120-B IPC, registered at Police Station Kosli, District Rewari, Haryana.

Learned counsel for the petitioner has submitted that this is a second successive bail petition filed by the petitioner and earlier bail petition was withdrawn on 31.08.2022. He submitted that at that point of time no prosecution was examined but now again six months have elapsed but no prosecution witness has been examined till date. He submitted that the petitioner has faced incarceration for about 1 year and 10 months and charges in the present case were framed on 27.07.2021 but thereafter not even a single prosecution witness has been examined. He submitted that the

present is a case which is triable by Magistrate and considering the aforesaid total period of custody, the petitioner may be considered for the grant of regular bail. He further submitted that although there are seven more cases pending against the petitioner but this fact cannot become a ground for denial of bail to the petitioner and particularly in view of the fact that the petitioner has already been extended the benefit of bail in others cases. He submitted that even as per the allegation against the petitioner, he had received some amount for recruitment of the complainants in the Railway Department but the same is only a matter of evidence which will be seen at the time of trial but the prosecution is not even causing appearance before the trial Court for deposing with a result that the custody of the petitioner is being perpetuated for no fault of the petitioner.

On the other hand, Ms. Nidhi Garg, learned AAG, Haryana has submitted that the petitioner is a habitual offender and he is involved in seven more cases of similar nature. However, the custody of the petitioner is not denied and it is also not denied that for about six months elapsed after the framing of the charges but no prosecution witness has been examined.

I have heard the learned counsel for the parties.

The petitioner has already faced incarceration for 1 year and 10 months. The present case is triable by Magistrate. Investigation of the case has already been completed. After the framing of the charges six months have elapsed but no prosecution witness has been examined. The pendency of other cases against the petitioner will not become a ground for denial of bail to the petitioner and particularly when the learned counsel for the petitioner has submitted that the petitioner is already on bail in those cases.

Furthermore, it is not the case of the State that in case the petitioner is released on bail, then he may influence any witness or may tamper with evidence or may flee from justice.

In view of the aforesaid facts and circumstances, this Court deems it fit and proper to grant regular bail to the petitioner.

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.

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.

07.02.2023

rakesh

Whether speaking
Whether reportable

(JASGURPREET SINGH PURI)
JUDGE

: Yes/No
: Yes/No