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

**CRM-M-57323-2022
Date of Decision: 17.02.2023**

Deepak

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Kamal Deep Sehra, Advocate,
for the petitioner.

Ms. Nidhi Garg, AAG, Punjab.

JASGURPREET SINGH PURI, J. (ORAL)

The present is a second petition filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case bearing FIR No.35, dated 21.01.2020, under Sections 302 & 34 IPC (Section 25 of the Arms Act, 1959 added later on), registered at Police Station Civil Lines, District Sonipat.

Learned counsel for the petitioner has submitted that the petitioner is in custody since 21.01.2020, which is more than 3 years and out of 16 cited witnesses, 11 have already been examined including the complainant. He further submitted that the complainant has not supported the prosecution version and has already been declared hostile. He also submitted that the FIR came to be lodged on the basis of the statement of the complainant that on hearing the noise of Reena Malik when he went to

the lobby of the room, he saw the present petitioner and the other co-accused were assaulting the deceased but at the time of trial, he has not supported the prosecution version. He also submitted that the petitioner has got clean antecedents and is not involved in any other case and he has been falsely implicated in the present case and even otherwise also, he has already suffered incarceration for more than 3 years, and therefore, he may be considered for the grant of regular bail.

On the other hand, Ms. Nidhi Garg, learned Assistant Advocate General, Haryana, has submitted that it is correct that the petitioner is in custody since 21.01.2020, which is more than 3 years and 11 out of 16 witnesses have been examined including the complainant, who has not supported the prosecution version. She further submitted that it is also correct that the petitioner is not involved in any other case. She has however opposed the grant of bail to the petitioner on the ground that the matter is serious in nature and there had been recovery of a knife from the petitioner.

I have heard the learned counsel for the parties.

Out of total 16 cited witnesses, 11 have already been examined including the complainant. As per the learned counsel for the parties, the complainant has not supported the prosecution version and the entire FIR was based upon the version of the complainant. The petitioner is admittedly not involved in any other case and he has already faced incarceration for more than 3 years. Furthermore, it is neither the case of the State nor it has been argued by the learned State counsel that in case the petitioner is released on bail then he may abscond or flee from justice or may influence the witness or may tamper with the evidence.

Therefore, considering the aforesaid facts and circumstances of

the present case and also considering the long custody of the petitioner, which is more than 3 years, this Court deems it fit and proper to grant regular bail to the petitioner. Consequently, the present petition is allowed and the petitioner is ordered to be released on regular bail on furnishing bail bond/surety bond to the satisfaction of the trial Court/Duty Magistrate concerned, if not required in any other case.

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

17.02.2023

Bhumika

(JASGURPREET SINGH PURI)
JUDGE

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| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |