

CRM-M-55743-2023

233

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

CRM-M-55743-2023

Date of Decision: 16.11.2023

Hans Raj

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Abhishek Khullar, Advocate,
for the petitioner.

Mr. G.S. Sidhu, AAG, Punjab.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case bearing FIR No.7 dated 15.02.2021, under Sections 302, 307, 323, 324, 120-B, 148, 149 IPC, registered at Police Station Ghuman, District Gurdaspur.

2. It has been submitted by learned counsel for the petitioner that the petitioner is in custody from 2 years and 9 months and it is a case where as per the allegation, the petitioner along with the co- accused had caused injuries to the deceased and consequently, he died. He further submitted that as per the FIR, the petitioner was apprehended on the spot and even as per the prosecution, the role attributable to the petitioner was giving fist blows only whereas the remaining accused were the persons, who had inflicted injuries upon the complainant and not the petitioner. He also submitted that the petitioner is suffering from acute medical ailment of not only Pulmonary Tuberculosis but also of Hepatitis B and earlier he was granted interim bail

by the learned trial Court for a period of one month and thereafter, he surrendered well in time. He further submitted that now the total incarceration of the petitioner is about 2 years and 9 months and the complainant has been examined-in-chief and thereafter, an application was filed under Section 319 Cr.P.C., the additional accused were summoned. He also submitted that one of the co-accused, namely, Mantu @ Sukhjinder Singh against whom the role attributable was the same as that of the present petitioner, i.e. for giving fist blows, has been granted bail by this Court although he was summoned under Section 319 Cr.P.C. He further submitted that the disease of Tuberculosis is transmittable disease and considering the aforesaid facts and circumstances and also the fact that the total incarceration of the petitioner is 2 years and 9 months, he may be considered for grant of regular bail.

3. On the other hand, Mr. G.S. Sidhu, learned AAG, Punjab submitted that it is correct that the petitioner is in custody from 2 years and 9 months and it is also correct that the petitioner is suffering from the aforesaid two diseases and was granted interim bail for a period of one month by the trial Court to which he surrendered well in time. He, however, submitted that the petitioner is involved in two more cases including Section 326 IPC, and therefore, the petitioner does not deserve the concession of regular bail.

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

5. After the examination-in-chief of the complainant, an application was filed under Section 319 of the Cr.P.C. by the prosecution for summoning the additional accused and thereafter, the trial could not

progress. One of the other co-accused, who also attributed fist blows to the deceased, although summoned as an additional accused under Section 319 Cr.P.C. has been granted bail by this Court. As per the prosecution, the role attributable to the petitioner was giving of fist blows to the deceased and as per the FIR itself, the complainant had so stated that the petitioner was empty handed. The petitioner has already faced incarceration for 2 years and 9 months and 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 regular bail then he may abscond or flee from justice or may influence the witnesses or may repeat the offence. Therefore, considering the aforesaid facts and circumstances and the long custody of the petitioner as well as the stage of the trial, this Court deems it fit and proper to grant regular bail to the petitioner.

6. 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.

7. 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.

16.11.2023.
Bhumika

(JASGURPREET SINGH PURI)
JUDGE

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