

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

214

CRM-M-59890 of 2022

Date of Decision:17.07.2023

Shamsher Singh @ Shera

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Gagandeep Singh Simble, Advocate,
for the petitioner.

Mr. Sarabjit Singh Cheema, DAG, Punjab

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No.78 dated 19.05.2020, under Sections 395, 506 IPC and Section 25 of the Arms Act, registered at Police Station Majitha, Police District Amritsar Rural, District Amritsar.

2. Learned counsel for the petitioner submitted that the petitioner is in custody from 10.07.2020 which is more than three years. He submitted that although the charges were framed in the present case on 23.01.2023, however not even a single prosecution witness has been examined in the present case till date. He submitted that it is a case where the name of the petitioner was nominated on the basis of his disclosure statement while he was in custody in some other case and in the present case he has been falsely implicated by the police. He submitted

that no recovery has been effected from the petitioner and rather the other similarly situate co-accused, namely, Manraj Singh @ Rubal @ Manmohit Singh @ Man and Rubaljit Singh @ Rubal have already been extended the benefit of regular bail by a co-ordinate Bench of this Court vide Annexures P-2 and P-3, respectively, and so far as the present petitioner is concerned, he is exactly at parity with the aforesaid two co-accused because both of them were also nominated on the basis of the disclosure statements while they were in custody. He submitted that be that as it may, now the petitioner has already faced incarceration for more than three years and not even a single prosecution witness has been examined till date and therefore the petitioner may be considered for the grant of regular bail.

3. On the other hand, Mr. Sarabjit Singh Cheema, learned DAG, Punjab has filed status report and submitted that it is correct that the petitioner has already faced incarceration for more than three years and no prosecution witness has been examined till date. He submitted that in fact one of the other co-accused was absconding and that was the reason as to why the trial has been delayed. So far as the parity of the present petitioner with the other two co-accused who have already been admitted to regular bail is concerned, he has not disputed the same. He submitted that the petitioner is involved in two more cases which are of similar nature.

4. I have heard learned counsel for the parties.

5. In the present case the petitioner has already faced incarceration for for more than three years and no prosecution witness has been examined till date. The other co-accused have already been admitted to regular bail by a co-ordinate Bench of this Court vide Annexures P-2 and P-3, respectively. As per learned

counsel for the parties, the name of the petitioner was nominated in the present case while he was in custody in some other case and no recovery has been effected from him. However, without commenting anything on the merit of the case, but considering the long custody of the petitioner which is more than three years and the fact that till date no prosecution witness has been examined, this Court deems it fit and proper to grant bail to the petitioner. 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 to the satisfaction of the learned trial Court/Duty Magistrate concerned.

6. 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 the present petition.

(JASGURPREET SINGH PURI)
JUDGE

July 17, 2023
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Whether speaking	:	Yes/No
Whether reportable	:	Yes/No