

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

217 CRM-M-59876-2022 (O&M)
Date of decision: 22.08.2023

Sumit ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. Atul Prataap Dhankhar, Advocate for the petitioner.
Mr. Gurbir S. Dhillon, AAG, Haryana.
Mr. Ashit Malik, Advocate for the complainant.

VIKAS SURI, J.
CRM-34803-2023

This is an application for placing on record statements of PW-1 to PW-6 as Annexure P-5 (collectively) and exemption from filing true typed copy of the same.

Notice of the application to learned counsel for the non-applicant.

Mr. Gurbir S. Dhillon, AAG, Haryana as well as Mr. Ashit Malik, Advocate for the complainant accept notice. Hard copy of the application has been furnished to them in the Court.

For the reasons mentioned in the application, the same is allowed. Annexure P-5 (collectively) is taken on record, subject to all just exceptions.

Main Case

1. The petitioner has filed the present petition under Section 439 Cr.P.C. for grant of regular bail in case FIR No.281 dated 16.04.2022, under Sections 120-B, 302, 506, 34 IPC, Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'the Act') (Sections 120-B, 148, 149 IPC deleted during investigation and Section 34 IPC and Section 3 of the Act have been added), registered at Police Station Samalkha, District Panipat.

2. Custody certificate of the petitioner dated 21.08.2023 has been filed by learned State counsel, which is taken on record. A copy thereof furnished to learned counsel for the petitioner.

3. Learned counsel for the petitioner contends that the case of the prosecution solely rests upon circumstantial evidence. The name of the petitioner surfaced in the disclosure statement suffered by his co-accused and there is nothing on record to substantiate the involvement of the petitioner in the occurrence. He refers to Annexure P-5, the statement of complainant PW-1 Ramesh, brother of the deceased, as well as statements of material witnesses i.e. PW2 to PW6 to contend that they have not supported the prosecution story and turned hostile as such. Learned counsel for the petitioner further submits the petitioner is in custody since 08.05.2022; the conclusion of trial will take time inasmuch as out of total 35 prosecution witnesses cited, only 06 witnesses have been examined so far, therefore, the present petition deserves to be allowed.

4. On the other hand, learned State counsel as well as learned counsel for the complainant oppose the bail petition.

5. Learned counsel for the complainant submits that one of the accused has recorded the video of the occurrence and voices samples have

been sent to FSL and the report therefrom is still awaited. Whereas, learned counsel for the petitioner asserts that the voice samples sent to FSL is of other co-accused and not that of the petitioner. He refers to the communication dated 15.06.2022 (Annexure P-3) vide which steps were being taken for taking voice sample of the accused mentioned therein and the name of the petitioner does not find mention in it.

6. I have heard learned counsel for the parties and perused the record.

7. Considering the totality of circumstances as noticed above coupled with the fact that the material witnesses including the complainant have resiled from their statements and turned hostile as such and keeping in view the fact that only 06 prosecution witnesses have been examined so far out of total 35 prosecution witnesses cited, therefore, it can safely be inferred that conclusion of trial will take time and no useful purpose would be served by keeping the petitioner under further incarceration. Therefore, the present petition is allowed. The petitioner is ordered to be admitted to bail during the pendency of trial, on his furnishing bail bonds and surety bonds to the satisfaction of the trial Court/Duty Magistrate.

8. It is, however, made clear that the petitioner shall not influence the trial in any manner directly or indirectly.

9. The observations made herein-above shall not be construed as an expression of opinion on the merits of the case.

August 22, 2023
sumit.k

(VIKAS SURJ)
JUDGE

Whether speaking/reasoned : Yes / No

Whether Reportable : Yes / No