

CRM-M- 60171-2022 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M- 60171-2022 (O&M)
Date of Decision: 19.05.2023

Rajesh

... Petitioner

V/s.

State of Haryana

... Respondent

CORAM: **HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

Present : Mr. Paras Jagga, Advocate
for the petitioner.

Mr. Karan Garg, AAG, Haryana.

Mr. Anil Chaudhary, Advocate for
Mr. Kamal Chaudhary, Advocate
for the complainant.

DEEPAK MANCHANDA, J.(Oral)

Petitioner has prayed for grant of regular bail under Section 439 Cr.P.C. in case FIR No. 434 dated 10.11.2021 under Sections 148, 149, 302, 307 IPC and Sections 25, 27 of Arms Act (Section 120-B IPC was added later on) registered at Police Station Kotwali, District Faridabad.

Learned counsel for the petitioner contends that the petitioner is in custody since 15.01.2022. He further contends that as per the FIR, no injury has been attributed to the petitioner and the only allegation qua the

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petitioner is that he accompanied one of the co-accused namely Arun alias Anna, who nominated the petitioner during investigation. It is further submitted that no recovery has been effected from the petitioner and the no direct evidence available to prove that the petitioner has any role in the alleged occurrence. He also contends that the co-accused Chandan, Sham alias Mona Pandit and similarly situated co-accused namely Sandeep Bainsla, Rajesh alias Bara alias Shivam, Yogesh alias Yogi have already been allowed regular bail by the Co-ordinate Bench vide order passed in CRM-M-32398-2022 dated 31.08.2022, CRM-M-42303-2022 dated 20.09.2022 and common order No. CRM-M- 46447-2022 dated 29.11.2022 respectively (Annexures P-3 to P-5). It is submitted that the challan stands presented and out of total 41 prosecution witnesses, only 03 has been examined till date and the conclusion of trial will take sufficient time, therefore, the petitioner be enlarged on bail.

Reply is taken on record. Per contra, learned counsel appearing on behalf of respondent-State, on instructions from the Investigating Officer, opposes the grant of regular bail to the petitioner, while submitting that the offence alleged against the petitioner is serious in nature and he is involved in four other cases as well, however, he does not dispute the fact that the investigation is complete and the challan stands presented and charges have been framed and the co-accused have been granted regular bail by the trial Court.

Confronted with the same, learned counsel for the petitioner submits that out of four cases, he is on bail in two of them while submitting

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that though other FIRs are pending against the petitioners yet as per settled law laid down by the Apex Court in ***Maulana Mohd. Amir Rashadi vs. State of U.P. and Others reported 2012 (2) SCC 382***, it is the facts of the present case which are required to be considered for the purpose of deciding the present bail application.

I have heard learned counsel for the parties.

Petitioner is in incarceration since 15.01.2022.

It is not a case made out by the respondent-State that in case concession of bail is granted to the petitioner, he would hamper the course of free and fair trial. Further, since the investigation is complete and the challan stands presented, where out of total 41 witnesses only 03 have been examined and similarly situated co-accused have been granted regular bail and the trial would take sufficient time. Moreover in the reply, the State has admitted that petitioner had only accompanied the other co-accused and there is nothing on record to suggest that petitioner inflicted any injury to the deceased, which resulted into the death of the deceased, therefore, no useful purpose would be served in keeping the petitioner behind bars.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court concerned on the following conditions:-

1. *he shall appear before the Court on each and every date of hearing;*
2. *he shall not give any threat or intimidation to the prosecution witnesses;*
3. *he shall not indulge in any criminal activity.*

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The Court accepting bonds would ensure that two local sureties who are financially sound having immovable properties within jurisdiction of the district furnish the bonds.

In addition to that the trial Court may impose any term and condition found suitable to ensure that the petitioner does not abscond and interfere in the trial. .

In case the petitioner violates any terms and conditions on which the bail has been granted to him, the prosecution would be entitled to apply for cancellation of his bail.

The petition is allowed.

(DEEPAK MANCHANDA)
JUDGE

19.05.2023
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Whether speaking/reasoned	Yes
Whether Reportable	Yes /No