

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

206

CRM-M-60337 of 2022

Date of Decision: 06.01.2023

Hanuman

....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Vikas Bishnoi, Advocate, for the petitioner.

Ms. Nidhi Garg, AAG, Haryana

JASGURPREET SINGH PURI, J. (Oral)

The present is a second petition filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No.238 dated 07.07.2020, under Sections 346 IPC (Sections 328, 364, 302, 201 and 34 IPC added later and Section 346 IPC has been deleted), registered at Police Station Sadar Fatehabad, District Fatehabad.

It has been submitted by the learned counsel for the petitioner that the petitioner is in custody from 05.10.2020, which is almost two years and three months. He submitted that it is a case where the FIR was got lodged by the complainant who is the son of the petitioner by alleging that his wife had gone missing and thereafter on his supplementary statement the name of the petitioner was nominated. He submitted that the petitioner is about 55 years of age and the entire prosecution story rests on the statement of the complainant but when the

complainant deposed before the learned trial Court as prosecution witness, he did not support the prosecution version and he was declared as hostile vide Annexure P-3 and apart from the above, all the material witnesses have already been examined who have also not supported the prosecution version. He submitted that the petitioner is suffering from multiple number of ailments and he earlier filed an interim bail application before this Court in CRM-M-37435 of 2022 which was allowed by this Court and the petitioner was granted interim bail for a period of 30 days on 16.09.2022. Thereafter, he has now surrendered back to the jail authorities well in time. He submitted that after considering the intensity of adverse medical condition of the petitioner, this Court had allowed the interim bail petition of the petitioner. So far as the present bail petition is concerned, the prayer in this petition is for grant of regular bail not only on medical grounds but also on the ground that the petitioner has already faced incarceration for about two years and three months and also the material witnesses have been examined including the complainant who has not supported the prosecution version and he was declared as hostile. He has further submitted that the petitioner has clean antecedents and is not involved in any other case.

On the other hand, Ms. Nidhi Garg, learned AAG, Haryana has submitted, on instructions from SI Mahabir Singh, that it is correct that now the petitioner has surrendered before the jail authorities on the expiry of the period of the interim bail well in time and he is in custody and it is also correct that the petitioner is in custody from 05.10.2020.

I have heard the learned counsel for the parties.

It is a case where the petitioner has faced incarceration for about two years and three months and this Court in CRM-M-37435 of 2022 had granted the

interim bail to the petitioner for a period of thirty days on medical grounds because the petitioner is stated to be suffering from multiple number of ailments. The petitioner is stated to be surrendered well in time. He is stated to be not involved in any other case and has clean antecedents. The name of the petitioner was nominated on the basis of supplementary statement of the complainant who has already been examined and he has not supported the prosecution version and has been declared as hostile. Furthermore, it is not 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 from justice or influence any witness or tamper with any evidence.

In view of the aforesaid facts and circumstances, this Court deems it fit and proper to grant the concession of regular 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.

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

January 06, 2023
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Whether speaking	:	Yes/No
Whether reportable	:	Yes/No