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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-58806-2023 (O&M)

Date of Decision: 29.11.2023

Gurvinder Singh

....Petitioner(s)

Versus

State of Haryana

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Amandeep Singh, Advocate for
Mr. S.P.S. Aulakh, Advocate, for the petitioner.

Mr. Vishal Kashyap, DAG, Haryana.

Mr. Rahul Deswal, Advocate, for the complainant.

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 FIR No. 145 dated 03.05.2021, under Sections 148, 149, 323, 324, 506 IPC (Sections 302, 120-B, 195-A, 34 IPC added later on), registered at Police Station Nissing, District Karnal, Haryana.

2. Learned counsel appearing on behalf of the petitioner submitted that the petitioner is in custody for about 2 ½ years and he was not named in the FIR and rather the co-accused were named in the FIR and it was only thereafter that on the disclosure statement of the co-accused, the name of the petitioner was nominated. He further submitted that the petitioner was falsely implicated at the instance of the police and thereafter as per the

prosecution, the role attributable to the petitioner was inflicting of *danda*

blow upon the deceased. He submitted that one of the other co-accused namely, Sajjan Singh who was also nominated on the basis of disclosure statement of a co-accused has been extended the benefit of regular bail by a Co-ordinate Bench of this Court on 30.10.2023 vide Annexure P-10. He submitted that considering the aforesaid long custody of the petitioner, he may be considered for the grant of regular bail. He also submitted that after the complainant was examined in chief the prosecution has moved an application under 319 Cr.P.C for summoning of the additional accused who were exonerated by the police and in this way, the trial has been delayed but it was not because of the fault of the petitioner and the result of the same was that he has to face incarceration for about 2 ½ years and the trial is not commencing. He further submitted that some of the other co-accused have not been arrested and that is also the reason as to why there is a delay in the trial but it is not attributable to the petitioner and considering his long custody, he may be considered for the grant of regular bail

3. On the other hand, Mr. Vishal Kashyap, DAG, Haryana has submitted that it is correct that the petitioner is in custody for about 2 ½ years. He submitted that although the name of the petitioner was not mentioned in the FIR but during investigation on the basis of disclosure statement of a co-accused his name was nominated. He submitted that there is a CCTV footage of a house of Gulab Singh where four persons were riding on two motorcycles and petitioner was also sitting on a motorcycle. However, the place of occurrence is at the fields and from the aforesaid facts and circumstances it can be gathered that the petitioner is also involved in the present offence.

4. Mr. Rahul Deswal, Advocate has appeared on behalf of the

complainant and has opposed the grant of bail on the ground that since the material witnesses have not been examined till date, the petitioner does not deserve the concession of regular bail.

5. I have heard the learned counsel for the parties.

6. The petitioner is in custody for about 2 ½ years and as per the learned counsel for the parties, the complainant has been examined in chief only thereafter because of application under Section 319 Cr.P.C, the further trial has not commenced. The name of the petitioner was not figured in the FIR but later on during investigation it was on the basis of disclosure statement of a co-accused and also the petitioner being identified to be on a motorcycle, although at a different place of occurrence, the petitioner was nominated as an accused in the present case. One of the other co-accused namely, Sajjan Singh who was also nominated on the basis of disclosure statement of a co-accused has been extended the benefit of regular bail by a Co-ordinate Bench of this Court vide Annexure P-10.

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

8. Consequently, the present petition is allowed. The petitioner shall be released on regular bail subject to furnishing bail bonds/surety to the satisfaction of the learned trial Court/Duty Magistrate concerned.

9. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

29.11.2023

rakesh

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking : Yes/No
Whether reportable : Yes/No