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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-61371-2023

Date of decision: 21.12.2023

Rakesh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Naveen Siwach, Advocate for the petitioner.

Ms. Palika Monga, DAG, Haryana.

VIKAS BAHL, J. (ORAL)

1. This is the second petition filed under Section 439 of Cr.P.C. for grant of regular bail to the petitioner in FIR No.47 dated 10.02.2021 registered under Sections 201 and 302 of Indian Penal Code, 1860 at Police Station Civil Lines, Hisar, District Hisar.

2. Learned counsel for the petitioner has submitted that the petitioner is in custody since 19.02.2021 (more than 2 years and 9 months) and although the star witnesses have been examined in the present case, six prosecution witnesses are yet to be examined and thus, the conclusion of trial is likely to take time. It is further submitted that the petitioner is not involved in any other case and that in the present case,

there is no eye-witness and the FIR was registered on the statement of Babu Ram (brother of the deceased) who had alleged in the FIR that a fight took place between the petitioner and the deceased about 7-8 days ago and that the complainant was sure that the present petitioner had killed his brother. It is contended that the said complainant-Babu Ram has been examined as PW1 on 09.10.2023 and has specifically stated that he does not know who had murdered his brother Ramu and the present petitioner who was present before the trial Court had no hand in the murder of his brother Ramu. It is further contended that in the present case, complete chain of events is not established and thus, the petitioner has a good case on merits and he deserves the concession of regular bail. It is argued that earlier bail application of the petitioner was dismissed as withdrawn on 04.08.2022 at that stage and liberty was granted to the petitioner to file a fresh petition after the examination of the complainant and after passing of the said order, the complainant has been examined on 09.10.2023, thus, entitling the petitioner to file the present second regular bail application.

3. Learned State Counsel, on the other hand, has opposed the present petition for grant of regular bail to the petitioner and has filed status report today in the Court which is taken on record and has submitted that as per the allegations levelled in the FIR, it has been stated by the complainant-Babu Ram that the present petitioner was staying with Ramu in the Hotel Chicken Hut where the deceased used to work and as per the said complainant, 7-8 days before the date of the incident,

a fight took place between the petitioner and the deceased and the petitioner had the intention to take revenge and thus, the complainant was certain that it was the present petitioner who had caused death of the deceased. It is further submitted that Deepak Kumar who is the owner of the said Hotel had last seen the petitioner with the deceased and in his statement also, he stated with respect to a quarrel between the petitioner and the deceased. Other facts however, have not been denied.

4. Learned counsel for the petitioner, in rebuttal, has submitted that even the said Deepak Kumar has been examined.

5. Keeping in view the abovesaid facts and circumstances more so, the facts that in the present case, the petitioner is in custody since 19.02.2021 (more than 2 years and 9 months) and six prosecution witnesses are yet to be examined and thus, the conclusion of trial is likely to take time and the star witnesses have already been examined and the fact that the FIR was registered on the statement of Babu Ram who is brother of the deceased who had stated in the said FIR that he was certain that it is the present petitioner who had killed the deceased and thereafter, he has been examined on 09.10.2023 and in his evidence, he has specifically stated that the petitioner who was present before the trial Court has no hand in the murder of his brother Ramu and has thus, not supported the case of the prosecution and also the fact that there is no eye-witness in the present case and that the petitioner is stated to be not involved in any other case, the present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing

bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate, subject to him not being required in any other case.

6. However, it is made clear that in case, any act is done by the petitioner to threaten the complainant or any of the witnesses, then it would be open to the State to move an application for cancellation of bail granted to the petitioner.

7. Nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

21.12.2023

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No