

2024:PHHC:070110



CRM-M-5077-2024(O&M)

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-5077-2024(O&M)

Date of decision : 16.05.2024

Sumit @ Pinni

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Siddarth, Advocate and
Ms.Savita Tanwar, Advocate
for the petitioner.

Mr.Naveen Singh Panwar, DAG, Haryana.

VIKAS BAHL, J.(ORAL)

1. This is the third regular bail petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR no.82 dated 19.02.2019 registered under Sections 302, 346 IPC at Police Station Sadar Hisar.

2. Learned counsel for the petitioner has submitted that in the present case, as per the custody certificate dated 16.05.2024, the petitioner has already undergone actual custody of 4 years 11 months and 14 days and out of 44 witnesses, only 26 witnesses have been examined and thus, the trial is likely to take time and thus, on the basis of custody period alone, the petitioner deserves the concession of regular bail. It is submitted that the last bail application of the petitioner was dismissed as withdrawn on 31.10.2023 with liberty to file a fresh petition after giving full and better

particulars and even after the said order, substantial period has elapsed and

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the trial has not concluded. It is argued that in the present case, there is no eye witness and the case is based on circumstantial evidence and the petitioner was not named in the present FIR. It is further submitted that the co-accused of the petitioner Krishan Kumar has been granted the concession of regular bail by the Coordinate Bench of this Court vide order dated 08.12.2022 passed in CRM-M-56317-2022 and as per the case of the prosecution, the petitioner has been implicated on the basis of his own disclosure statement stated to have been made in FIR no.204 dated 09.09.2019. It is submitted that it is highly debatable as to whether the statement made by the petitioner while in the custody of the police in another case could be material evidence to implicate the petitioner in the present case.

3. Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that the petitioner is involved in other cases as well and is a habitual offender. It is further submitted that in addition to his own statement, even the complainant Sandeep has given the supplementary statement dated 19.02.2019 (Annexure P-3) in which he has stated that he has full belief that his brother-in-law Naveen has been murdered by the present petitioner and Krishan Kumar. It is further submitted that motor cycle and pistol have been recovered from the present petitioner.

4. Learned counsel for the petitioner, in rebuttal, has relied upon the judgment of Hon'ble Supreme Court in ***“Maulana Mohd. Amir Rashadi vs. State of U.P. and another”***, reported as ***2012 (2) SCC 382*** to contend that the facts and circumstances of the present case are to be seen

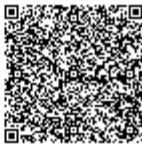
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while deciding a bail application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in other cases. The relevant portion of the said judgment is reproduced hereinbelow:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

It is further submitted that a perusal of statement dated 19.02.2019 (Annexure P-3) would show that Sandeep, who has implicated the present petitioner, has stated that it was only on account of his belief and even the said Sandeep is not an eye witness in the present case. It is reiterated that Krishan Kumar, who has also been named by Sandeep, has also been granted the concession of regular bail by the Coordinate Bench of this Court.

5. Keeping in view the above said facts and circumstances moreso, the fact that the petitioner has been in custody for 4 years, 11 months and 14 days as per custody certificate dated 16.05.2024 and out of 44 witnesses, 26 witnesses have been examined and thus, the trial is likely to take time and also the fact that there is no eye witness in the present case and the case is based on circumstantial evidence and the petitioner was not named in the FIR and also the fact that the co-accused of the petitioner Krishan Kumar has been granted the concession of regular bail by the Coordinate Bench of this Court vide order dated 08.12.2022 passed in CRM-M-56317-2022, the present petition is allowed and the petitioner is



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ordered to be released on bail on his furnishing bail / surety bonds to the satisfaction of the concerned trial Court/ Duty Magistrate and 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 or influence 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 a final 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 petition.

(VIKAS BAHL)
JUDGE

May 16, 2024
Davinder Kumar

Whether speaking / reasoned	Yes/No
Whether reportable	Yes/No