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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-8546-2024
Date of decision:-10.07.2024

GIRIRAJ

... Petitioner

Versus

STATE OF HARYANA

... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. Siddharth Sihag, Advocate for the petitioner.

Mr. Surender Singh, AAG, Haryana.

SANJIV BERRY, J.(ORAL)

Learned State counsel has filed custody certificate dated 09.07.2024, the same is taken on record, copy thereof, has been supplied to the counsel opposite.

2. The instant petition has been preferred by the petitioner under Section 439 of the Code of Criminal Procedure for grant of regular bail in the following case (Annexure P-1):-

FIR No.	Dated	Sections	Police Station
790	09.11.2020	302, 34 IPC (34 IPC deleted later on)	Hisar Sadar Hisar

3. It is *inter alia* contended by learned counsel for the petitioner that the petitioner is innocent and has been falsely implicated in this case. He contends that the alleged occurrence took place on 09.11.2020 and the



petitioner was arrested in this case on 28.11.2022 on the basis of alleged supplementary statement given by PW-2 Dinesh brother of the deceased. The Challan was presented in Court and during course of trial the prosecution examined the material witnesses Dinesh as PW-2 besides examining PW-5 Davinder, PW-6 Raj Kumar (Annexure P-3 to P-5) respectively and none of these material witnesses have lent any support to the case of the prosecution and they have turned hostile. He submits that the petitioner is not having any criminal antecedents and conclusion of trial will take sufficient long time, as such he prays for grant of concession of bail to the petitioner.

4. Per contra, learned State counsel referring to the reply dated 03.04.2024 submitted by the State has assailed these arguments and prayed for dismissal of the petition. However, he has not disputed the fact that vide their testimonies (Annexure P-3 to P-5) the complainant Dinesh as well as other material witnesses have not supported the case of the prosecution and have turned hostile. He submits that the other witnesses remained to be examined by the the prosecution happen to be formal official witness.

5. After considering the rival contentions and perusing the record, it transpires that originally the petitioner was not nominated in the case but was nominated after 45 days by the complainant Dinesh by way of his supplementary statement (Annexure R-2). The alleged occurrence took place on 09.11.2020 and the present petitioner was arrested after about 2 years on 28.11.2022. It is worth mentioning that during course of trial said Dinesh-complainant of the case while appearing as PW-2 has turned hostile and had not lent any support to the case of the prosecution. Similarly, PW-5



Davinder, PW-6 Raj Kumar all are real brothers of the deceased and have not lent any support to the case of the prosecution against the present petitioner. Other witnesses happen to be official formal witnesses. So considering the fact that the material witnesses have not lent any support to the case of the prosecution against the present petitioner and the fact that conclusion of trial will take sufficient long time, coupled with the fact that the petitioner is not having any criminal antecedents and in custody since 28.11.2022, no purpose would be served by detaining the petitioner any longer in custody.

6. Resultantly, the present petition is allowed. The petitioner is ordered to be released on regular bail subject to furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court concerned, if not required in any other case; undertaking to regularly appear on each and every date; not to leave the country without prior permission of the Court; and not to tamper with evidence of prosecution in any manner.

7. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

(SANJIV BERRY)
JUDGE

10.07.2024
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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |