



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

203

CRM-M-13324-2024
Date of decision: 13.09.2024

AMIT

...Petitioner

VERSUS

STATE OF HARYANA

...Respondent

CORAM : HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Deepak Girotra, Advocate
for the petitioner.

Mr. Hitesh Pandit, Addl. AG, Haryana.

DEEPAK MANCHANDA, J.

1. This is the second petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.0026 dated 28.01.2021, under Sections 34 and 302 of IPC (Section 201 IPC added later on) and Sections 25, 54 and 59 of Arms Act, registered at Police Station Gohana Sadar, District Sonipat, first such petition was dismissed as withdrawn vide order dated 19.04.2023 (Annexure P-3) passed in CRM-M-7561-2023.
2. As per allegations in the FIR on 27.01.2021, the petitioner along with other co-accused, namely, Sumit visited the house of the complainant and asked to take Anil (deceased) but complainant did not allow his son-Anil to go with them and after receiving a telephonic call, Anil left the house at about 06:00 AM. Thereafter at about 04:00 PM, the complainant contacted his son on his mobile phone No. 9050017087 and he told that he went to Gohana and would return by evening, who was also



having another phone No. 70278847662. Around 07:00 PM, the complainant was informed that his son Anil had been murdered by giving a gun shot in the field of Mehmoodpur near Drain No.8 and his dead body was lying there. On receiving this information, the complainant and other family members reached the spot and found the dead body of his son. Thereafter, the FIR was registered under Sections 302/34 of IPC and Section 25 of Arms Act. Vide order dated 16.01.2023 (Annexure P-2), petitioner approached the trial Court for seeking regular bail under Section 439 of Cr.P.C but the same was rejected. Aggrieved against the said order dated 16.01.2023, the petitioner approached this Court by filing CRM-M-7561-2023 which was withdrawn vide order dated 19.04.2023 (Annexure P-3) as this Court observed that since the trial is at fag end and out of total 25 witnesses, 19 witnesses have already been examined. Faced with this, learned counsel for the petitioner withdrew the said petition. Thereafter, on 13.02.2024 petitioner filed 2nd bail application for granting regular bail under Section 439 Cr.P.C. which has also been dismissed by the trial Court vide order dated 20.02.2024 (Annexure P-5). Now after a gap of more than one year, the petitioner has again approached this Court by filing the present petition being the second bail application seeking regular bail in the aforementioned FIR.

3. Learned counsel for the petitioner contends that earlier bail application of the petitioner was withdrawn vide order dated 19.04.2023 (Annexure P-3) and thereafter, a co-ordinate Bench of this Court vide order dated 18.01.2024 (Annexure P-4) passed in CRM-M-43615-2023 granted concession of regular bail to the co-accused, namely, Pardeep keeping in view of his incarceration of 02 years, 03 months and 23 days by observing that only two formal witnesses remained to be examined by prosecution



which shows that there is no likelihood of tampering of the prosecution witnesses by the said petitioner and no specific role was attributed to him and the petitioner being the co-accused prays parity for concession of regular bail. Learned counsel for the petitioner further contends that after the withdrawal of earlier application vide order dated 19.04.2023 (Annexure P-3), there is no progress in the trial where out of 25 witnesses, only 20 witnesses have been examined till today. Since the conclusion of trial will take time, the petitioner will face long incarceration and his prayer for granting concession of regular bail be considered on account of parity as well as on merits where no specific role has been attributed to the petitioner and even a SKODA car bearing registration No.DL-11-CA-3544 used in the alleged crime has already been recovered on the basis of disclosure statement made by the co-accused - Pardeep.

4. Per contra, learned State counsel has opposed the prayer of regular bail to the petitioner and submits that the petitioner is the main accused who first visited the house of the complainant and he has been specifically named in the FIR who along with other co-accused committed the murder of Anil (deceased) as they were having grudge against him. He further submits that petitioner has been specifically named in the FIR by the complainant and the case of the petitioner is distinguishable from the other co-accused, who has been granted bail by the co-ordinate Bench. It has been submitted that now the trial is at fag end where only 05 formal witnesses are to be examined and prays for dismissal of the present bail application as petitioner does not deserve concession of regular bail.

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

6. A perusal of file would show that the trial Court has rightly rejected the bail application vide order dated 20.02.2024 (Annexure P-5)



and the submissions made by learned State counsel are accepted where allegations against the petitioner are serious who actively participated in the commission of crime and does not deserve any leniency. Moreover, the role of the petitioner is distinguishable from the co-accused as he has been specifically mentioned in the FIR by the complainant whereas the co-accused Pardeep was initially not named in the FIR. Keeping in view of the specific role of the petitioner and after withdrawal of earlier bail application vide order dated 19.04.2023 filed before this Court, there is no change of circumstances, hence, this Court is not inclined to accept the prayer for granting regular bail to the petitioner and the same is declined. However, the trial Court is directed to expedite the trial, where as per status report dated 21.05.2024, there are 05 prosecution witnesses, those have not been examined and the prosecution is also directed to make an endeavour to ensure the presence of all unexamined witnesses who have been left out.

7. The petition is dismissed.

(DEEPAK MANCHANDA)
JUDGE

September 13, 2024

Nisha Yadav

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No