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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-18234-2024
Date of decision: 22.04.2024

VIKAS @ KALU

...Petitioner

VERSUS

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Virender Soni, Advocate
for the petitioner.

Mr. Gaurav Jindal, Addl. A.G., Haryana.

Mr. Nihul Pratap Singh, Advocate
for the complainant.

JASGURPREET SINGH PURI, J. (Oral)

1. The present is a second petition filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No.196 dated 21.07.2022, under Sections 302, 34 of the IPC and Section 25 of the Arms Act (Section 120-B, 201 of the IPC and Section 29, 54, 59 of the Arms Act added later on), registered at Police Station Chhainsa, Faridabad, District Faridabad, Haryana.
2. Learned counsel for the petitioner submitted that the petitioner is in custody for 1 year, 8 months and 10 days and the complainant already stands examined. He further submitted that even as per the prosecution story, four persons, who were the co-accused had come in a white colour Polo vehicle at

the particular place and killed the deceased, namely, Rahul. He further submitted that so far as the allegation against the petitioner is concerned, that was only qua the conspiracy that he helped the other co-accused to procure the arms. He further submitted that the petitioner has been falsely implicated in the present case in view of the fact that earlier he was involved in some other cases and considering the aforesaid custody and the alleged role of the petitioner, he may be considered for the grant of regular bail.

3. On the other hand, Mr. Gaurav Jindal, Addl. A.G., Haryana submitted that it is correct that the petitioner is in custody for 1 year, 8 months and 10 days and the complainant already stands examined and it is also correct that the role of the petitioner was that he conspired with the other co-accused and helped them to procure the arms but even as per the prosecution, the petitioner was not one of those four persons who had actually fired upon the deceased. He has however opposed the grant of regular bail to the petitioner on the ground that he is a habitual offender and is involved in four more cases, out of which in three cases he has been acquitted and one case is pending against him.

4. Learned counsel for the complainant has also opposed the grant of regular bail to the petitioner on the ground that the petitioner was actually involved in the present offence and he is a habitual offender and therefore, he is not entitled for the grant of regular bail.

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

6. It is a case where the petitioner has already faced incarceration for 1 year, 8 months and 10 days and the complainant already stands examined. As per the learned counsel for the parties, the role of the petitioner was that he had

helped the other co-accused to arrange arms, although he was not the person who was present on the spot where the present offence had taken place. On the other hand, it was a case of the learned counsel for the petitioner that the reason as to why he was implicated in the present case was because of pendency of other cases and the police has falsely implicated the petitioner so as to show the chain of events. This Court is of the considered view that considering the aforesaid custody of the petitioner, the stage of the trial and the fact that even as per the learned counsel for the parties, the petitioner was not present on the spot at the time when the present offence had taken place and the role assigned to him was with regard to the conspiracy, the petitioner deserves the concession of regular bail.

7. Consequently, the present petition is allowed. The petitioner shall be released on regular bail, if not required in any other case, subject to furnishing bail bonds/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate concerned.

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

22.04.2024
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

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