

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

**SR. No.215**

**CRM-M-24188-2024  
Date of decision:18.09.2024**

**Mukesh**

**...Petitioner**

**Versus**

**State of Haryana**

**...Respondent(s)**

**CORAM: HON'BLE MR. JUSTICE N.S. SHEKHAWAT**

**Present:** Mr. Balraj Gujjar, Advocate for the petitioner.

Ms. Sheenu Sura, DAG, Haryana.

Mr. Arvind Kumar Shukla, Advocate with  
Mr. Siddharth Sarup, Advocate and  
Mr. Balwan Singh, Advocate for the complainant.

**N.S. SHEKHAWAT, J.**

**CRM-28668-2024**

Application is allowed, as prayed for. Annexure P-8 is  
permitted to be placed on record.

**Main case**

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in FIR No.139 dated 26.10.2022 under Sections 148/149/323/325/302/427/201/120-B IPC registered at Police Station Bhupani, Faridabad.

2. Learned counsel for the petitioner contends that even though the petitioner was initially named in the FIR as one of the assailants, however, no specific reason was assigned to him. During the course of investigation, it was found that the petitioner was not present, at the spot at the time of occurrence and he was implicated in the present case with the aid of Section 120-B IPC. He has referred to the final report under Section 173 Cr.P.C. (Annexure P-2) to contend that the petitioner was neither present at the spot nor any recovery has been effected from him. He further submitted that during the investigation, the only role attributed to the petitioner was that he had conspired with the co-accused, who had allegedly attacked Mohit Yadav (since deceased) and during the course of investigation, the police could not find even substantial evidence with regard to the alleged conspiracy also. Learned counsel further contends that in the present case, the complainant is not intentionally appearing before the trial Court, just to delay the trial and this is led to incarceration of petitioner for a longer period. This argument is supported by the various orders passed by the trial Court.

3. Learned counsel further contended that in the present case, the petitioner was arrested on 03.11.2022 and is in custody since then. Learned counsel further referred to Annexure P-8, i.e. testimony of Naveen Yadav, eye witness, who did not name the petitioner as one of the assailants in the present case. This clearly proves that the petitioner was not present at the spot and did not participate in the crime. By referring to the bail orders (Annexures P-4 to P-6) passed by this Court, learned counsel submitted that other similarly placed co-accused, namely, Nishant, Sumit, Vinay and Rahul Chauhan have already been granted the concession of bail by this Court.

Thus, further custody of the petitioner will not serve any meaningful purpose.

4. On the other hand, learned State counsel assisted by learned counsel for the complainant have vehemently opposed the submissions made by the learned counsel for the petitioner on the ground that as per the complainant/eye witness, the petitioner was present at the spot and had caused injuries to Mohit Yadav (since deceased). Still further, learned counsel for the complainant submitted that the investigation in the present case was tainted and the investigating officer did not investigate the matter fairly. However, learned counsel for the State could not dispute the fact that in the report under Section 173 Cr.P.C., it had been specifically mentioned that the petitioner was not present at the spot at the time of occurrence.

5. I have heard the learned counsel for the parties and perused the case file minutely.

6. In the present case, the petitioner was arrested on 03.11.2022 and he is in custody for the last about 01 year and 10 months. The injured/eye witness, namely, Naveen Yadav has already been examined by the trial Court, however, the petitioner has not been named as one of the assailants. Apart from that, other co-accused, namely, Nishant, Sumit, Vinay and Rahul Chauhan have also been admitted to bail by this Court. Even the lapse of about two years, the trial has not progressed much and the complainant is not appearing before the trial Court.

7. Without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject

to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate, concerned.

18.09.2024  
mks

(N.S. SHEKHAWAT)  
JUDGE

Whether Speaking/Reasoned:  
Whether Reportable:

YES / NO  
YES / NO