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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-31619-2024
Date of decision: 11.07.2024

SHUNTI

...Petitioner

VERSUS

STATE OF HARYANA

...Respondent

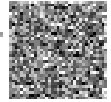
CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Pankaj Bali, Advocate
for the petitioner.

Ms. Rajni Gupta, Addl. A.G., Haryana.

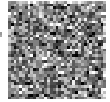
JASGURPREET SINGH PURI, J. (Oral)

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.158 dated 02.05.2021, under Sections 148, 149, 323, 325, 307, 302, 506 and 120-B of the IPC, registered at Police Station Madhuban, Karnal, Haryana.
2. Learned counsel for the petitioner submitted that the petitioner is in custody from 04.06.2021, which is 3 years, 1 month and 4 days. He further submitted that as per the allegations contained in the FIR, 7-8 persons came in a Scorpio car, encircled the complainant, namely, Narender, his brother, namely, Prem and father, namely, Singhu Ram and started beating them. Resultantly, all the three injured were taken to the hospital and thereafter, the aforesaid Narender died after about 20 days. He further submitted that in the FIR, some of the other co-accused were named but the petitioner was not named in the



FIR. He further submitted that the petitioner was nominated on the basis of disclosure statement of a co-accused during the course of investigation and he has been falsely implicated in the present case because he was earlier involved in 5 more cases pertaining to theft. He also submitted that in fact when the trial commenced, the brother of the deceased, namely, Prem, who is also an eye-witness deposed before the Court during examination-in-chief and thereafter, on the basis of his naming the other co-accused, the matter was adjourned for filing an application under Section 319 Cr.P.C. for summoning of additional accused, namely, Hardeep, Kanwaljeet Bhinder @ Bukhar and Rinku @ Goli. He further submitted that even in the aforesaid deposition before the Court during examination-in-chief, which is attached along with the present petition as Annexure P-2, the name of the petitioner has not figured and purely on the basis of disclosure statement of a co-accused, the petitioner has been nominated, which is otherwise not admissible in evidence.

3. Learned counsel for the petitioner further submitted that be that as it may, the petitioner has now faced incarceration for more than 3 years and only one witness has been examined and that too partially and thereafter, since in the application under Section 319 Cr.P.C. additional accused were summoned, they moved petitions before this Court bearing No.CRR-2435-2022 and CRR-1748-2023, in which notice of motion was issued and impugned order passed by the learned trial Court was stayed. He further submitted that thereafter, the trial is not even progressing because of the aforesaid reason with the result that custody of the petitioner is being elongated despite the fact that he was neither named in the FIR nor in the statement of the injured before the learned trial Court. It is also submitted that one of the co-accused, namely,



Rinku, who was summoned as an additional accused filed a petition before this Court for grant of anticipatory bail, which was allowed by a Coordinate Bench of this Court on 16.02.2023. He further submitted that in view of the aforesaid facts and circumstances and especially considering the fact that the trial is not progressing, the petitioner may be considered for the grant of regular bail.

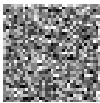
4. On the other hand, Ms. Rajni Gupta, Addl. A.G., Haryana has filed the custody certificate of the petitioner in the Court today and the same is taken on record. She submitted that it is correct that the petitioner is in custody for 3 years, 1 month and 4 days and the trial of the case is not progressing because of the pendency of the petition before this Court pertaining to application under Section 319 Cr.P.C. She has however opposed the grant of regular bail to the petitioner on the ground that the deceased himself gave a statement before the police under Section 161 Cr.P.C. that the petitioner had inflicted injuries on him and also that he is a habitual offender.

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

6. The petitioner is in custody for more than 3 years. Although the petitioner is involved in some other cases but as per the learned counsel for the parties, the trial is not progressing because of the pendency of the aforesaid petition before this Court in which a challenge was laid to the order passed under Section 319 Cr.P.C. A perusal of the statement of the injured before the learned trial Court would show that the name of the petitioner has neither figured in his deposition nor has he named the petitioner.

7. Therefore, this Court is of the considered view that considering the custody of the petitioner, he deserves the concession of regular bail.

Furthermore, it is not the case of the learned State counsel that in case the



petitioner is released on bail, then he may influence any witness or may tamper with evidence or may flee from justice.

8. 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.

9. 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.

11.07.2024
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

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