

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-30173-2023
DECIDED ON: 29.01.2024

ARJUN

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Dr. Pankaj Nanhera, Advocate and
Mr. Rahul Gauram, Advocate
for the petitioner.

Mr. Gurbir Singh Dhillon, AAG Haryana.

Mr. S.K. Tripathi, Advocate for the complainant.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court has been invoked under Section 439 Cr.P.C., seeking regular bail to the petitioner in FIR No.241, dated 28.12.2021, under Sections 302, 148, 149, 120-B of IPC, 1860 and Section 25 of Arms Act, 1959, registered at Police Station Dhauj, District Faridabad (Annexure P-1).
2. Learned counsel for the petitioner at the outset contends that the co-accused namely Sonu @ Bhura, who has been attributed the fatal injury has been granted the concession of regular bail by this Court vide order dated 12.05.2023 (Annexure P-3) passed in CRM-M-18986-2023 and seeks concession of regular bail being at a much better footing than the co-accused namely Sonu @ Bhura.
3. Learned counsel for the complainant vehemently contends for dismissal of the instant petition urging that the petitioner, who is a retired Sub-inspector from the police department and is *Mausa* and *Taya* of the deceased,

though may not have given the fatal blow to the deceased. There was some altercation that took place on a dispute pertaining to connection of a tubewell and availing facility of the water for the said tubewell. He also asserts that the petitioner was arrested 6 months after the registration of the FIR.

Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. He could not controvert the fact that the fatal blow was given by Sonu @ Bhura alongwith Lalit out of which Sonu @ Bhura has been granted the concession of regular bail, though Lalit is still behind the bars. He submits that the petitioner was attributed the role of main conspirator and also relies upon the arguments raised by learned counsel for the complainant.

Heard, learned counsel for the respective parties and gone through the custody certificate, according to which the petitioner is behind the bars for the last 1 year, 7 months and 14 days, who admittedly has not given the fatal blow, which is attributed to Lalit and Sonu @ Bhura added with the fact that the petitioner is a person of clean antecedents, as he is not involved in any other case and after framing of charges on 09.02.2023 out of 34 prosecution witnesses, none has been examined so far, which is suffice to convince this Court that trial will certainly take long time, which would amount to infringement of his right to life and liberty, as enshrined under Article 21 of Constitution of India and is against the principle "bail is a rule and jail is an exception".

6. In the light of the above discussions made hereinabove, the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

7. The present petition, is hereby allowed.

8. However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

29.01.2024

Meenu

(SANDEEP MOUDGIL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>