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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-33337-2024
Date of decision: 19.09.2024

VIKASH ALIAS VICKY

...Petitioner

VERSUS

STATE OF HARYANA

...Respondent

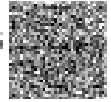
CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Aman Arora, Advocate for the petitioner.

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

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No.376 dated 13.05.2019, under Sections 148, 149, 323, 341, 302 and 120-B of the IPC (Section 307 of the IPC added later on) and Section 25/54 of the Arms Act, registered at Police Station Sadar Palwal, District Palwal, Haryana.
2. Learned counsel for the petitioner submitted that the petitioner is in custody for 5 years, 3 months and 1 day and only 5 prosecution witnesses have been examined out of total cited 34 prosecution witnesses. He further submitted that it is a case where the allegations were that because of personal enmity, some assailants came and shot the deceased, namely, Mamraj. He further submitted that the petitioner was not named in the FIR and the eye-witnesses and the material witnesses have deposed that two persons, namely, Udham



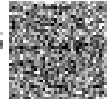
Singh and Sunder had exhorted the assailants while sitting inside the car to eliminate the eye-witness, namely, Jiley Singh and the deceased, namely, Mamraj and in the meantime, co-accused, namely, Tirath son of Udham Singh came on a motorcycle from behind and started firing indiscriminately and other assailants also fired shots and inflicted injuries with iron rods and wooden sticks. He further submitted that there is no direct role attributable to the petitioner, although it was so deposed by the aforesaid eye-witness, namely, Jiley Singh that he identifies the petitioner, who was present in the Court.

3. Learned counsel for the petitioner also submitted that in fact the petitioner has been falsely implicated in the present case in view of the fact that he is involved in as many as 8 more cases and that was the reason as to why his name has been nominated in the present case. He further submitted that considering of the aforesaid facts and circumstances of the present case especially the long custody of the petitioner which comes out to be 5 years, 3 months and 1 day, he may be considered for the grant of regular bail.

4. On the other hand, Mr. Gaurav Jindal, Addl. A.G., Haryana submitted that it is correct that the petitioner is in custody for 5 years, 3 months and 1 day and only 5 prosecution witnesses have been examined till date. He has however opposed the grant of regular bail to the petitioner on three grounds. Firstly, the eye-witness, namely, Jiley Singh had identified the petitioner at the time of deposition, secondly, the petitioner is a habitual offender and thirdly, two more material witnesses are yet to be examined.

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

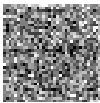
6. The petitioner is stated to be in custody for 5 years, 3 months and 1 day and only 5 prosecution witnesses have been examined out of total cited 34



prosecution witnesses. The first argument raised by learned State counsel that the aforesaid eye-witness, namely, Jiley Singh had identified the petitioner at the time of deposition is concerned, it has been so stated by the learned counsel for the petitioner that the aforesaid eye-witness had rather specifically stated that two other co-accused, namely, Tirath and Narotam had started firing indiscriminately which hit the deceased but so far as the petitioner is concerned, there was no direct role attributable to him. Therefore, this Court is of the view that the aforesaid is only a matter of evidence which will be seen by the learned trial Court but at the same time the long custody of the petitioner would be a material factor for the purpose of considering the grant of regular bail to him. So far as the second argument raised by the learned State counsel that the petitioner is a habitual offender and he is involved in as many as 8 more cases is concerned, that itself cannot become a ground for denial of regular bail to the petitioner considering his aforesaid long custody. So far as the third argument raised by the learned State counsel that two more material witnesses are yet to be examined is concerned, considering the long custody of the petitioner, which comes out to be 5 years, 3 months and 1 day, the aforesaid argument raised by the learned State counsel would not sustain.

7. Therefore, considering the aforesaid totality and circumstances of the present case, this Court deems it fit and proper to grant regular bail to the petitioner.

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.

19.09.2024
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

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