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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-37267-2024
Date of decision: 09.08.2024

DAYANAND

...Petitioner

VERSUS

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

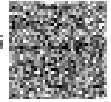
Present:- Mr. Kapil Aggarwal, Advocate
for the petitioner.

Mr. Gaurav Jindal, 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.464 dated 27.07.2018, under Sections 120-B, 148, 149, 195-A, 302, 506 of the IPC and Section 25 of the Arms Act (Section 195-A of the IPC deleted later on and Section 216 of the IPC and Section 27 of the Arms Act added later on), registered at Police Station Samalkha, District Panipat, Haryana.

2. Learned counsel for the petitioner submitted that the petitioner is in custody for 5 years, 10 months and 12 days and till date only 9 prosecution witnesses have been examined out of total cited 28 prosecution witnesses. He further submitted that initially charges in the present case were framed in the month of December, 2019 and thereafter, were framed on 18.11.2022. He

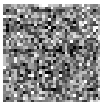


further submitted that the petitioner was not even named in the FIR and rather the other co-accused were named in the FIR on the allegation that they had fired upon the deceased. He further submitted that thereafter, when the complainant deposed before the learned trial Court, he rather stated that the petitioner had fired upon the deceased and in this way, there was a material discrepancy between the initial version and the version which was deposed before the learned trial Court. He specifically submitted that the petitioner has clean antecedents and he is not involved in any other case and his name has been nominated purely on the basis of disclosure statement of a co-accused and there is no other evidence to connect the petitioner with the present offence and otherwise also, the total custody of the petitioner has come out to be 5 years, 10 months and 12 days and considering the custody and his clean antecedents, 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 5 years, 10 months and 12 days and he has clean antecedents and is not involved in any other case. He has however submitted that although the name of the petitioner was not mentioned in the FIR but at the time of deposition, the complainant had taken his name.

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

5. It is a case where initially the petitioner was not named in the FIR but was nominated on the basis of disclosure statement of a co-accused. As per both the learned counsels for the parties, the petitioner has clean antecedents and he is not involved in any other case. The petitioner has already faced



incarceration for 5 years, 10 months and 12 days. 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.

6. In view of the above and considering the long custody of the petitioner, which is 5 years, 10 months and 12 days, this Court is of the considered view that 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.

09.08.2024
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

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