

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M No. 36940 of 2023 (O&M)
Date of Decision: 14.03.2024

Sagar

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Vivek Suri, Advocate,
Mr. Darpan Bansal, Advocate and
Mr. Dushyant, Advocate
for the petitioner.

Mr. Rajiv Sidhu, Deputy Advocate General, Haryana

Mr. Akashdeep Singh, Advocate
for the complainant.

HARKESH MANUJA, J. (ORAL)

The petitioner, by way of present (second) petition filed under Section 439 Cr.P.C., seeks grant of regular bail pending trial in case bearing FIR No. 345 dated 29.06.2021, under Sections 302 & 201 of IPC (Sections 212 & 34 of IPC added later on), registered at Police Station Shivaji Colony, Rohtak.

[2] Learned counsel for the petitioner submits that the petitioner was nominated in the FIR on the basis of disclosure statement made by co-accused, namely, Sandeep, which was recorded on 01.07.2021, as well as supplementary statement of Sudesh (wife of deceased), which was recorded on 18.07.2021. He further submits that the petitioner is already behind the bars since 30.06.2021, i.e. for the past almost 2 years and 8 months and the

investigation already stands concluded with the filing of challan followed by framing of charges whereas only two of the prosecution witnesses have been examined so far out of the total 45 (including 6 named in the supplementary challan) and the trial is likely to take some time. Learned counsel for the petitioner further submits that the blood stains over the *Iron Pana* recovered from the petitioner was disintegrated with no conclusive report thereupon.

[3] Prayer made herein has been vehemently opposed at the instance of learned State counsel assisted by learned counsel for the complainant while submitting that *prima facie* involvement of petitioner was established during investigation with the repeated calls between co-accused (Vishal) and the petitioner on the date of incident i.e. 28.06.2021 besides, the recovery of blood-stained *Iron Pana* as well as the key of the scooty and clothes of deceased on the disclosure statement made by the petitioner. Learned State counsel further points out that the mobile tower location of the petitioner and the main accused Sandeep are also found to be near the place of incident.

[4] I have heard learned counsel for the parties and gone through the paper book. I find substance in the submissions made on behalf of the petitioner.

[5] In the present case, the petitioner is behind the bars for a period of almost 2 years and 8 months and the investigation stands concluded with the filing of challan followed by framing of charges. Forty-two (42) witnesses are yet to be examined and thus the trial is likely to take some time. On the other hand, material witnesses i.e. complainant-Rajender and

wife of deceased-Sudesh already stands examined and as such there is no threat of the petitioner, influencing the material witnesses. Moreover, the relevance of the scientific evidence collected by the Investigating Agency in the shape of mobile tower locations as well as mobile calls between Vishal and the petitioner shall be gone into at the stage of trial which itself is likely to take some time. Moreover, in the FSL report, no conclusive opinion has been given as regards blood-stains found on the *Iron Pana* recovered from the petitioner, while recording that the same were found disintegrated. It may also be noted here that the co-accused (Vishal @ Sunny), with whom the call detail of petitioner had been located as on the date of incident, has already been granted the concession of regular bail vide order dated 12.02.2024 passed by this Court in CRM-M-49281-2022. Considering the totality of the facts and circumstances, this Court does not find justification to extend his incarceration any further.

[6] In view of the above, but without commenting anything on the merits of the case, lest it may prejudice the trial, the present petition is **allowed** and the petitioner is ordered to be released on regular bail on his furnishing adequate bail/surety bonds to the satisfaction of the Trial Court / Illaqa Magistrate / Duty Magistrate concerned.

[7] Since, the FIR relates to the year 2021, the trial Court is requested to conclude its trial at the earliest, as out of 42 prosecution witnesses, only 03 have been examined.

[8] It is made clear that this order may not be construed as an expression of opinion on the merits of the case.

[9] Pending miscellaneous application(s), if any, shall also disposed off.

March 14, 2024
'dk kamra'

(HARKESH MANUJA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No