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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CRM-M-58570-2023

Date of Decision: 16.05.2024

Gurmeet Singh

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. D.S. Virk, Advocate
for the petitioner.

Mr. Gaurav Jindal, Addl. AG, Haryana.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present is a second petition filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case bearing FIR No.173, dated 25.06.2020, under Sections 212, 396, 302, 115, 216-A & 34 IPC, registered at Police Station Kalayat, District Kaithal.

2. Learned State counsel stated that the costs of Rs.20,000/- has already been deposited in the Punjab and Haryana High Court Legal Services Committee by the State and has also placed on record a copy of the receipt in that regard. He further submitted that the reply has been filed but the same has not been attached with the paper-book. He has however supplied a copy of the reply in the Court today, which is taken on record.

3. Learned counsel for the petitioner submitted that petitioner is in custody for more than 3 years 10 months and 7 days and 9 out of 39 witnesses have already been examined. He submitted that the allegation in the present FIR was that one Baba Ram Dass had gone to drink juice, but thereafter his



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companions, who were at Dera, were informed that the Baba is lying down in an injured condition near the canal and when they reached there the aforesaid deceased Baba Ram Dass had named three persons, namely, Kulbir, Mehra and Chhavi Dass Baba and as per the FIR, these were the people who inflicted injuries upon the deceased with the *Dandas*. He further submitted that the petitioner was not named by the deceased Baba Ram Dass and it was thereafter, on the statement of Kulbir under Section 161 Cr.P.C. before the police that the name of the petitioner was cropped up. However, when the aforesaid Kulbir made a statement before the Magistrate under Section 164 Cr.P.C. vide Annexure P-2, then name of none of the accused persons had cropped up at that point of time, although he had stated that out of six assailants, he recognizes three. Learned counsel for the petitioner further submitted that in this way the name of the petitioner has not come up at any stage except in one stage under Section 161 Cr.P.C. by one of the co-accused, namely, Kulbir. He submitted that now the aforesaid Kulbir has died 5-6 months ago and total 9 prosecution witnesses have already been examined and the petitioner has clean antecedents and is not involved in any other case and has been falsely implicated in the present case. He submitted that considering the aforesaid facts and circumstances and also considering the long custody of the petitioner, he may be considered for grant of regular bail.

3. On the other hand, Mr. Gaurav Jindal, learned Addl. AG, Haryana has filed custody certificate of the petitioner, which is taken on record. He submitted that as per the custody certificate, the petitioner is in custody for 3 years 10 months and 7 days and he is not involved in any other case. He further submitted that the petitioner was one of the six assailants and it was



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specifically stated by the aforesaid co-accused, namely, Kulbir and because of this reason, the petitioner was nominated in the present FIR and therefore, considering the seriousness of the offence, the petitioner does not deserve the concession of regular bail.

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

5. As per the learned counsel for the parties, it is a case where the petitioner has already faced incarceration for 3 years 10 months and 7 days and he is stated to be not involved in any other case. The name of the petitioner did not figure in the FIR and rather the name of the other co-accused had figured in the FIR. The petitioner was nominated on the basis of the disclosure statement of the co-accused, namely, Kulbir and as per the learned counsel for the parties, the aforesaid Kulbir has already died.

6. After considering the aforesaid facts and circumstances especially the long custody of the petitioner, this Court deems it fit and proper to grant regular bail to the petitioner. Consequently, the present petition is allowed and the petitioner is ordered to be released on regular bail on furnishing bail bond/surety bond to the satisfaction of the trial Court/Duty Magistrate concerned, if not required in any other case.

7. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of present petition.

16.05.2024*Bhumika***(JASGURPREET SINGH PURI)
JUDGE**

1. Whether speaking/reasoned	Yes/No
2. Whether reportable:	Yes/No