



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-62444-2023

Date of decision : 07.05.2024

Akash @ Santi

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Rahul Bhargava, Advocate and
Mr.Digvijay Singh, Advocate
for the petitioner.

Mr.Naveen Singh Panwar, DAG, Haryana.

VIKAS BAHL, J.(ORAL)

1. This is a third petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR no.23 dated 06.02.2021 registered under Sections 452, 302, 120-B, 34 IPC and Section 25 of the Arms Act at Police Station Jhojhu Kalan, District Charkhi Dadri.

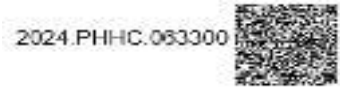
2. Learned counsel for the petitioner has submitted that the petitioner has been in custody since 16.02.2021 (more than 3 years and 1 month) and the trial is still pending and 7 witnesses are yet to be examined. It is submitted that the last bail application of the petitioner was dismissed as withdrawn at that stage on 09.08.2023 with the direction to the trial Court to conclude the trial expeditiously and in spite of lapse of more than 8 months from the said date, the trial has not concluded. It is further submitted



that on the basis of custody alone, the petitioner deserves the concession of regular bail. It is argued that in the present case, there is no eye witness, who had actually seen the petitioner fire the fatal shots and the two material witnesses Rambir and Manish, father and brother of the deceased had only last seen the victim with the present petitioner. It is further argued that the said witnesses and other material witnesses have been examined and thus, the question of the petitioner influencing them does not arise. It is stated that even as per the disclosure statement of the petitioner (Annexure P-2), it is apparent that even as per the prosecution case, the deceased Nitish used to keep a bad eye on the sister of the petitioner. It is further stated that even in case the presence of the petitioner at the place of the incident is proved by the prosecution during the course of the trial, it would be a matter of debate as to who had fired at the deceased.

3. Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that as per the prosecution case, the petitioner is the main accused and has further submitted that as per the statement of the complainant Rambir, father of the deceased and Manish, brother of the deceased, the petitioner was last seen with the accused. It is further submitted that the bullet recovered from the body of the deceased, as per the FSL report, was fired from the pistol recovered from the petitioner and thus, in the said circumstances, the petitioner does not deserve the concession of regular bail. Other facts have not been disputed.

4. This Court has heard learned counsel for the parties and has perused the paper book.



5. Keeping in view the above said facts and circumstances moreso, the fact that the petitioner has been in custody since 16.02.2021 (more than 3 years and 1 month) and 7 witnesses are yet to be examined and thus, the trial is not likely to conclude in the near future and the fact that there is no eye witness who had actually seen the petitioner fire at the deceased and also the fact, that the material witnesses including the complainant Rambir, father of the deceased and Manish, brother of the deceased have been examined and thus, the question of the petitioner influencing them does not arise and also the fact that as per the disclosure statement of the petitioner recorded by the prosecution, it was deceased Nitish who used to keep a bad eye on the sister of the petitioner, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail / surety bonds to the satisfaction of the concerned trial Court/ Duty Magistrate and subject to him not being required in any other case.

6. However, it is made clear that in case, any act is done by the petitioner to threaten or influence the complainant or any of the witnesses, then, it would be open to the State to move an application for cancellation of the bail granted to the petitioner.

7. Nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

May 07, 2024
Davinder Kumar

(VIKAS BAHL)
JUDGE