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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-59909-2023 (O&M)
Date of decision: 28.01.2025

DEVANAND RAI

...Petitioner(s)

VERSUS

STATE OF PUNJAB

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. G. S. Khokhar, Advocate as Legal Aid Counsel,
Ms. Rekha Jain, Advocate and
Mr. R. K. Chaudhary, Advocate
for the petitioner.

Mr. Shiva Khurmi, AAG, Punjab.

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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.97 dated 17.09.2019, under Sections 302, 201, 120-B and 34 of the IPC, registered at Police Station Mohkampura, District Amritsar, Punjab.

2. Learned counsels for the petitioner submitted that it is a case where the petitioner has already faced incarceration for about 5 years and 4 months and 27 prosecution witnesses have been examined out of total cited 29 prosecution witnesses. They further submitted that the FIR was lodged on the basis of suspicion because a dead body of an unknown lady was found. They further submitted that one of the co-accused, namely, Ram Tirath was the main

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accused, who was the landlord of the house where the deceased alongwith her husband i.e. the present petitioner were residing and the allegations were that the petitioner was having relations with the wife of the aforesaid co-accused, namely, Ram Tirath. They further submitted that the entire prosecution story is based upon suspicion and circumstantial evidence. They referred to Annexure P-6 vide which the aforesaid co-accused, namely, Ram Tirath has been extended the benefit of regular bail by this Court on 08.08.2023 primarily on the ground of long custody.

3. Learned counsels for the petitioners also submitted that one of the other co-accused, namely, Kamlesh, who is the wife of the aforesaid co-accused, namely, Ram Tirath has also been extended the benefit of regular bail by this Court on 11.09.2024 vide CRM-M-43621-2024. They further submitted that the petitioner has clean antecedents and he is not involved in any other case. They further submitted that so far as the present petitioner is concerned, he was nominated on the basis of disclosure statement of aforesaid co-accused, namely, Ram Tirath and the allegation against the petitioner was that he aided the other co-accused by supplying weapon of offence and considering the fact that the petitioner is not only at parity with the aforesaid co-accused, namely, Ram Tirath but is rather at a better footing and has also faced incarceration for a much longer time than that of aforesaid co-accused, namely, Ram Tirath, he may be considered for the grant of regular bail.

4. On the other hand, Mr. Shiva Khurmi, AAG, Punjab submitted that it is correct that the petitioner is in custody for about 5 years and 4 months and it is also correct that the aforesaid co-accused, namely, Ram Tirath has already

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been extended the benefit of regular bail by this Court vide Annexure P-6. He further submitted that 27 prosecution witnesses have been examined out of total cited 29 prosecution witnesses. So far as the parity aspect is concerned, he submitted that the allegations against the aforesaid co-accused, namely, Ram Tirath were that he had killed the lady whose dead body was found. He further submitted that so far as the allegation against the present petitioner is concerned, the same was that he had supplied weapon of offence to other co-accused and his name was nominated on the basis of disclosure statement of aforesaid co-accused, namely, Ram Tirath. He also submitted that considering the seriousness of the offence, the petitioner may not be granted the concession of regular bail.

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

6. It is a case where the petitioner is in custody for about 5 years and 4 months. As per the learned counsels for the parties, 27 prosecution witnesses have been examined out of total cited 29 prosecution witnesses and in this way, all the material witnesses stand examined. The aforesaid co-accused, namely, Ram Tirath against whom allegations were that he had killed the lady whose dead body was found has already been extended the benefit of regular bail by this Court vide Annexure P-6. The entire prosecution story is otherwise also based upon circumstantial evidence. So far as the present petitioner is concerned, he was nominated on the basis of disclosure statement of aforesaid co-accused, namely, Ram Tirath and the allegation against the petitioner was with regard to supplying weapon to the co-accused and aiding in the offence but the aforesaid co-accused has already been extended the benefit of regular bail

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by this Court as aforesaid vide Annexure P-6 and therefore, on the principle of parity, this Court is of the considered view that the present petitioner is rather at a better footing than the aforesaid co-accused, namely, Ram Tirath. Apart from the above, even otherwise also the custody of the petitioner has come out to be about 5 years and 4 months and it has been stated by the learned counsels for the parties that the petitioner has clean antecedents and he is not involved in any other case. 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.

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.

(JASGURPREET SINGH PURI)
JUDGE

28.01.2025
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

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