

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

**CRM-M-50768-2018
Date of decision: 26.11.2018**

Jeet Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Amandeep Singh Manaise, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

This petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 151 dated 07.08.2013, registered under Sections 302 and 34 of the IPC at Police Station Sadar Jalalabad, District Fazilka.

Learned counsel for the petitioner submits that as per the allegations in the FIR, got registered on the statement of complainant Gurdeep Singh, his brother Kundan Singh went missing and later on, he came to know that his brother was beaten up by Satnam Singh, Joginder Singh and Sumitra Bai @ Goga wife of Satnam Singh. Later on, he also came to know that the accused have administered some poisonous substance to his brother Kundan Singh and when he was being taken to hospital, he died on the way.

Learned counsel for the petitioner further submits that the police, after conducting the investigation, submitted challan only against Sumitra Bai @ Goga w/o Satnam Singh under Section 306 IPC, however,

later on, on an application, filed by the prosecution, the charges were amended by the trial Court from 306 IPC to 302 IPC.

It is further submitted that later on, the prosecution moved an application under Section 319 Cr.P.C. in which the petitioner along with Satnam Singh and Joginder Singh were summoned.

Learned counsel for the petitioner further submits that petitioner was arrested on 08.08.2018 and since then, he is in judicial custody.

It is further submitted that main accused Sumitra Bai @ Goga has already been granted concession of regular bail, vide order dated 02.05.2018 passed in CRM-M-17529-2018. The operative part of the order reads as under:

“Counsel for the petitioner has submitted that the petitioner is a lady and initially the FIR was registered under Section 306 IPC and the petitioner was granted bail on 29.03.2014, after she remained in judicial lock up for a period of about 02 months. It is further submitted that the petitioner faced the trial for a period of 04 years and never misused the concession of bail. It is also submitted that later on, after recording the statement of certain witnesses, charges were amended on 04.01.2018 and thereafter, the petitioner was re-arrested on the same day and since then, the petitioner is in judicial lock up. Counsel for the petitioner has further argued that the police, though, initially registered an FIR under Section 302 IPC, however, during the investigation, Section 302 IPC was deleted and challan was submitted under Section 306 IPC and, therefore, at this stage, while re-framing the charge under Section

302 IPC, it is yet to be decided whether the offence is punishable under Sections 302 IPC or 306 IPC, in view of the statement of PW3. Counsel for the State has filed the Custody Certificate today in the Court and on instructions from ASI Gurnaib Singh, has not disputed the factual assertions but opposed the prayer for bail. Without commenting anything on merits of the case and considering the fact that the petitioner remained on bail for a period of 04 years and has not misused the said concession and also in view of the fact that now charges have been altered and charge under Section 302 IPC has been framed and conclusion of the trial is likely to take some time, this petition is allowed and the petitioner is ordered to be released on bail subject to furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate. However, it will be open for the prosecution to apply for cancellation of bail, if the petitioner is found misusing the concession of bail, in any manner.”

Learned State counsel, on the basis of the custody certificate filed in Court today, has not disputed the factual position and submitted that remaining prosecution evidence is yet to start. As per custody certificate, petitioner is not involved in any other case.

I have heard learned counsel for the parties.

Without commenting anything on merits of the case and considering the fact that the petitioner is in judicial custody since 08.08.2018; he is not involved in any other case; main accused Sumitra Bai @ Goga has already been granted concession of regular bail as noticed above and also considering the fact that conclusion of the trial is likely to

take some time, this petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail, if the petitioner is found misusing the concession of bail, in any manner.

November 26, 2018

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

*Whether speaking/reasoned
Whether reportable*

*Yes/No
Yes/No*