

CRM-M-14555 of 2020**Gopal Singh @ Gopal Kishan vs. State of Punjab**

Present: Mr. Aditya Sanghi, Advocate
for the petitioner.

Ms. Rashmi Attri, AAG, Punjab.
(appearing keeping in view advance copy served)

The petition has been taken for hearing through video conference due to Covid-19 pandemic.

This is the second petition filed under Section 439 Cr.P.C. for the grant of regular bail in respect of FIR No.61 dated 27.09.2019 under Sections 365 IPC (Sections 304 and 34 IPC added later on) registered at Police Station Garhdiwala, District Hoshiarpur.

Learned counsel for the petitioner submits that the petitioner was roped into the said FIR, keeping in view the confessional statement given by Gurpreet Singh @ Gaurav. Learned counsel for the petitioner submits that Gurpreet Singh @ Gaurav, who was arrested on 27.09.2019 gave a disclosure statement about the dead body and named the petitioner in his confessional statement, which he had suffered while in police custody. Learned counsel for the petitioner submits that Gurpreet Singh @ Gaurav has already been granted the benefit of regular bail by this Court while deciding CRM-M-12677 of 2020 and, therefore, the petitioner, who is behind bars since 27.09.2019, be also granted concession of regular bail.

Learned State counsel does not dispute that the petitioner was named by Gurpreet Singh @ Gaurav in his confessional statement given to the police and further Gurpreet Singh @ Gaurav has already been granted the benefit of regular bail by this Court.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

It is not disputed that co-accused Gurpreet Singh @ Gaurav, on the basis of whose confessional statement, the petitioner was roped in the present FIR, has already been granted benefit of regular bail while deciding CRM-M-12677 of 2020. The said order is as under:-

“The matter has been taken up by way of Video Conferencing in view of Covid-19 situation as per instructions issued.

The petitioner seeks regular bail in FIR No.61 dated 27.09.2019 under Sections 365, 304, 34 IPC registered at Police Station, Gardiwala, District Hoshiarpur.

The FIR was lodged by complainant Mahesh father of the deceased after six days wherein it was alleged that on 21.09.2019, the petitioner had come at 4.00 AM in the morning to call his son Jitu the deceased for some work who had refused to go. The son of the complainant at 4.30/4.45 AM had gone to answer the call of nature and did not come back. Resultantly suspicion was raised against the petitioner.

Counsel for the petitioner submits that the information as such was given to the police on 21.9.2019 also. During the course of investigation supplementary statement of Mahesh, complainant was recorded wherein one Gopal Singh was also named who was cultivating the land on lease wherein wire having electricity current had been fixed for hunting. The complainant case was that the deceased had been intentionally taken to the field of sugarcane to see as to whether any hunt had died and wire having electricity current had touched with his hand due to which he had died. Resultantly body of the deceased as such had been recovered from the sugarcane field which had been covered with sugarcane leaves.

Counsel for the petitioner has thus argued

that the investigation is complete and the charge has been framed a week earlier and the trial is likely to take some time. The Addl. Sessions Judge, Hoshiarpur as such declined the regular bail on account of the confessional statement and as the offence under Section 304 IPC was added and there was direct allegation against the petitioner of committing crime alongwith his co-accused.

In the considered opinion of this Court since the cause of death was electrocution it would be a moot point as such as to whether the applicant as such was responsible for the offence under Section 304 IPC. The petitioner along with deceased and the other co-accused as such were apparently by using electrified fence were doing illegal hunting of wild animals which are readily found in District Hoshiarpur since it is in the foothills of Shivalik mountains. It is also the case of the counsel that at best the case would be under Section 201 IPC since body was got recovered at their instance from the sugarcane field.

In such circumstances, since the petitioner has been in custody from 27.10.2019; investigation is complete and the trial is likely to take considerable time, this Court is of the opinion that a case for grant of regular bail is made out.

Accordingly petitioner be released on regular bail to the satisfaction of the Illaqua/Duty Magistrate, Hoshiarpur.

Accordingly the present petition stands disposed of.”

Learned State counsel very fairly concedes that there is no differentiation in the allegations alleged against the petitioner and Gurpreet Singh @ Gaurav, which would disentitle the petitioner the benefit of bail, as extended to Gurpreet Singh @ Gaurav. That being so, once the co-accused has already been granted the concession of regular bail, it will not be justifiable to deny the petitioner the same benefit without there being any

distinguishable fact.

Further, no useful purpose will be served by keeping the petitioner behind the bars, especially, when the trial is likely to take some time. The petitioner has made out a case for the grant of regular bail keeping in view the facts noticed before.

Without commenting upon the merits of the case, it is directed that the petitioner be released on regular bail, subject to the satisfaction of trial Court/Duty Magistrate concerned.

However, it is made clear that anything observed herein shall not be construed to be an expression of any opinion on the merits of the case.

July 01, 2020
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(HARSIMRAN SINGH SETHI)
JUDGE

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