

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-2923-2021

Date of Decision: 18.11.2021

Jagwinder Singh @ Mangu

....Petitioner(s)

Versus

State of Punjab

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Manoj Kumar, Advocate, for the petitioner.

Mr. Arun Kumar Kaundal, DAG, Punjab.

Mr. Amandeep Singh Gulati, Advocate, for the complainant.

Through Video Conferencing

JASGURPREET SINGH PURI, J. (Oral)

The present petition filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No.58 dated 27.03.2019, under Section 302/404/411/201/34 IPC (Section 346 IPC deleted later on), registered at Police Station Tripuri, District Patiala.

The learned counsel for the petitioner has submitted that the petitioner is in custody for about 2 years and 8 months and two prosecution witnesses have already been examined. He further submitted that it is a case based upon circumstantial evidence and the allegations were that the deceased was seen alongwith the petitioner in the evening and dead body of the deceased was seen after 6 days and the name of the petitioner was

nominated only on the basis of circumstantial evidence alongwith other co-accused namely, Sukhchain Singh. He further submitted that the deceased was a drug addict and there is no role attributable to the petitioner and furthermore, the other co-accused namely Sukhchain Singh has already been granted bail by this Court vide Annexure P-1. He has submitted that keeping in view his long incarnation and the fact that the entire case is based upon circumstantial evidence, he may be considered for the grant of regular bail.

On the other hand, Mr. Arun Kumar Kaundal, learned Deputy Advocate General, Punjab has submitted that it is correct that the petitioner is in custody for about 2 years and 8 months and two prosecution witnesses have been examined. However, he has opposed the grant of regular bail to the petitioner on the ground that the matter is serious in nature and also the petitioner is not at parity with the other co-accused namely, Sukhchain Singh, however, the case is based upon circumstantial evidence. He while referring to the affidavit filed by the State has submitted that one Kahi, one gold chain in two pieces, a bullet motorcycle and purse of the deceased containing PAN card and Voter Card were recovered from the petitioner. The learned State counsel has submitted that the petitioner has earlier been convicted under Section 379 IPC

The learned counsel for the petitioner has however stated that the petitioner had already undergone that sentence and the mere fact that he was convicted under Section 379 IPC would not disentitle the petitioner for the grant of regular bail.

I have heard the learned counsel for the parties.

The custody of the petitioner is 2 years and 8 months and two

prosecution witnesses have already been examined. The present case is based upon circumstantial evidence. Even if the petitioner is not at parity with the other co-accused namely Sukhchain Singh, still the case of the petitioner can be considered for grant of regular bail keeping in view the long custody. The conviction of the petitioner in another case of Section 379 IPC cannot create an embargo for grant of bail to the petitioner in the present case. A perusal of the affidavit filed by the State as well as the arguments raised by the learned counsel for the State, there is nothing on record to show 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.

Therefore, without commenting on the merits of the case and considering the totality of circumstances, the present petition is allowed. The petitioner shall be released on regular bail subject to furnishing bail bonds/surety to the satisfaction of the learned trial Court/Duty Magistrate concerned.

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

18.11.2021

rakesh

**(JASGURPREET SINGH PURI)
JUDGE**

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