

CRM-M-10941-2021

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

CRM-M-10941-2021

Date of decision: 14.07.2021

Shaira @ Sunny @ Kinnar

.....Petitioner (s)

V/s.

State of Punjab

.....Respondent(s)

CORAM: - HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Rishu Mahajan, Advocate, for the petitioner.

Mr. Randhir Singh Thind, Deputy Advocate General, Punjab.

JASGURPREET SINGH PURI, J.(Oral)

The present petition has been filed under Section 439 of Code of Criminal Procedure for grant of regular bail to the petitioner in case bearing FIR No.89 dated 12.07.2019, under Sections 304/34 of Indian Penal Code, 1860 (Section 302 IPC added later on), registered at Police Station Majitha Road, Amritsar.

As per the facts which are contained in the FIR it was registered on the basis of an information which was made by the complainant Jagtar Singh son of Kartar Singh wherein he had stated that his son namely Inderjit Singh @ Gori used to work as a labourer and used to drink occasionally. On 11.07.2019 at about 8.00 P.M. when his son came to him and he stated that he wanted to have a cigarette for smoking and asked for money to which he gave Rs.20/- but thereafter he did not return

home till 9.00 P.M. Thereafter, the nephew of the complainant whose name is Gagan met him near the resident of one Ram Lubhaya from whom the complainant enquired about the whereabouts of Inderjit Singh deceased who then told that the said Inderjit Singh is at the residence of Ram Lubhaya upon which the complainant called out the name of his son and his son and the wife of Ram Lubhaya namely Preeti came out. He asked his son to come back home, who then said that he will come back after a while. On 12.07.2019 the brother-in-law of son of the complainant and son-in-law of brother of the complainant told him that the wife of Ram Lubhaya namely Preeti and an eunuch were seen picking up deceased Inderjit @ Gori outside the gate of the residence of Ram Lubhaya and carried him to Hospital at Amritsar for treating where he was declared as brought dead.

It has been contended by the learned counsel for the petitioner that in fact the deceased Inderjit Singh was a drug addict and he used to drink and also when he had left home, he had asked for cigarette. He further submitted that in the medico-legal report it has been stated that the cause of death was probably due to morphine poisoning and even the residents of the village had also mentioned that the deceased was habitual of drug consumption and various criminal cases were registered against him.

It has been further submitted by the learned counsel for the petitioner that the other co-accused namely Preeti who is at parity with the present petitioner has been granted regular bail by this Court on 16.11.2020 vide Annexure P-5 and has submitted that the petitioner is in custody since 16.07.2019 which is about two years and the charges have been framed on 18.03.2020 and till date out of the total cited 17 witnesses none of them

have been examined. He submitted that it is a case where no recovery is to be made from the petitioner and the trial of the case would take long time and the petitioner is at parity with the aforesaid Preeti and, therefore, he may be considered for the grant of regular bail.

On the other hand, Mr. Randhir Singh Thind, learned Deputy Advocate General, Punjab has stated that it is correct that the petitioner is in custody since last two years and the evidence could not be started despite the fact that the charges were framed on 18.03.2020 probably due to the restrictions of Covid-19 pandemic. So far as the parity of the petitioner with other co-accused is concerned, the learned State counsel has not denied the same. However, he has opposed the grant of bail on the ground that the matter is serious in nature.

I have heard the learned counsel for the parties.

The custody period of the petitioner is not in dispute and it is also not in dispute that the prosecution witnesses could not be examined even after a lapse of one year from the date when the charges were framed. The learned State counsel has not disputed that the petitioner is at parity with the other co-accused namely Preeti. Furthermore, it is not the case of the State that in case the petitioner is released on bail then he may tamper with evidence or may influence any witness or may flee from justice.

Therefore, without commenting on the merit 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.

(JASGURPREET SINGH PURI)
JUDGE

14.07.2021
rakesh

whether speaking	:	<i>Yes/no</i>
<i>whether reportable</i>	:	<i>Yes/no</i>