

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

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CRM-M-20622-2021(O&M)
Date of Decision : August 26, 2021

KULDIP CHAND ALIAS LUCKY

.....Petitioner

VERSUS

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present : Mr. Vijay Lath, Advocate for the petitioner.

Mr. Randhir Singh Thind, DAG, Punjab.

Through Video Conferencing

JASGURPREET SINGH PURI. J. (Oral)

CRM-27065-2021

For the reasons recorded in the application the same is allowed. The accompanying annexures are taken on record subject to all just exceptions.

Main case

The present 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.107 dated 19.7.2020 under Section 306 IPC, Police Station Anandpur Sahib, Tehsil Sri Anandpur Sahib, District Rupnagar, Punjab.

The learned counsel for the petitioner has submitted that the petitioner was falsely implicated in the present case and none of the ingredients contained under Sections 306 and 107 of the IPC are fulfilled in the present case. He has submitted that be that as it may, the investigation of the case is already complete and the challan has already been presented before the competent Court under Section 173 Cr.P.C.

and, thereafter, even the charges have been framed on 6.1.2021 and the petitioner is in custody for about one year i.e. from 7.9.2020. He has submitted that no recovery is to be effected from the petitioner and earlier he had filed a bail application before this Court, which was dismissed as withdrawn at that stage on 28.1.2021 in view of the fact that the charges were framed on 6.1.2021 and the prosecution witnesses were yet to be examined and, therefore, the petition was withdrawn at that stage. He further submitted that vide Annexures P-3 to P-16, which are the Zimini orders have been placed on record today, it becomes clear that repeated adjournments have been made by the learned trial Judge and in none of the dates the prosecution witnesses were present and on two occasions, the official witnesses were also summoned throughailable warrants and, therefore, it is a case where the trial has not progressed at all despite the fact that repeated adjournments were granted by the trial Court. He has submitted that the petitioner was falsely implicated in the present case and considering his incarceration period as well as the fact that the petitioner is not involved in any other case and the trial of the case would take long time, he may be considered for the grant of regular bail.

Mr. Thind, learned DAG, Punjab has stated that it is correct that the petitioner is in custody since 7.9.2020 and the investigation of the case is already complete and no recovery is to be effected from the petitioner and the charges have been framed on 06.01.2021. He has not been able to justify as to why the prosecution witnesses could not be examined on a number of occasions after the framing of the charges despite the fact that even the warrants were also issued against the official

witnesses. The learned State counsel has not disputed that the petitioner is not involved in any other case. He has further submitted that the FSL report of the pen drive has not been received as yet.

I have heard the learned counsels for the parties.

The petitioner is in custody for almost one year and investigation of the case is already complete and no recovery is to be effected from the petitioner. A perusal of the Zimni orders, which have been placed on record by the petitioner, would show that repeatedly the matter was adjourned from time to time after the framing of the charge but in every order it has been observed that no PWs were present and even the FSL report of the pen drive has not been received as yet. Furthermore, it is not the case of the State that in case the petitioner is released on bail then he may influence any witness or may tamper with any evidence or may flee from justice.

Therefore, considering the totality of the circumstances of the present case, this Court deems it fit and proper to grant bail to the petitioner.

Consequently, the present petition is allowed. The petitioner is ordered to be released on bail on furnishing of bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/Duty Magistrate.

(JASGURPREET SINGH PURI)
JUDGE

August 26, 2021
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Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No