

CRM-M-22092-2021 (O&M)

THROUGH VIDEO CONFERENCE

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

**CRM-M-22092-2021 (O&M).
Decided on: August 9, 2021.**

Aman Aggarwal

.. Petitioner

VERSUS

State of Punjab

.. Respondent

*** * ***

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

*** * ***

**PRESENT Mr.Preetinder Singh Ahluwalia, Advocate,
for the petitioner.**

Mr.Randhir Singh Thind, DAG, Punjab.

JASGURPREET SINGH PURI, J. (ORAL)

The present petition has been filed under Section 439 of the Code of Criminal Procedure, seeking regular bail in FIR No.5 dated 10.1.2020, under Sections 302/34 of IPC, registered at Police Station Chatiwind, District Amritsar (Rural).

Affidavit of Deputy Superintendent of Police, Crime, Zonal Amritsar, has been filed by way of email. A printout of the same is directed to be taken on record.

Custody certificate filed by the State is also taken on

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record.

Learned counsel for the petitioner has submitted that it is a case where the petitioner has been falsely implicated and the present FIR has been planted upon the petitioner and ex-facie from the narration of the facts in the FIR itself, the allegations against the petitioner appear to be concocted. He has submitted that as per the allegations contained in the FIR, the complainant who is father of the deceased lady and father-in-law of the petitioner had alleged that the deceased wife of the petitioner was killed by the petitioner and the paramour of his wife namely Sagar Malik along with the relative of aforesaid Sagar Malik. He has further submitted that, in fact, the story on the face of it seems to be improbable because it is against the nature that anybody would kill his wife in connivance with the paramour of his wife and the relatives of the paramour as well. He has submitted that on the other hand, the petitioner had himself taken his wife to the Fortis Hospital when he was informed that she was lying in the car.

On 19.07.2021, learned State counsel had sought time to address arguments and to file an affidavit with regard to the role of the petitioner in the present case.

Mr. Randhir Singh Thind, learned DAG, Punjab, while referring to the contents of the affidavit has submitted that when the inquiry was conducted by the police the other co-accused namely Sagar Malik, Neeta Malik and Dimpy Arora were exonerated by the police and after the completion of investigation challan was presented only qua the petitioner on 10.06.2020. However, thereafter on the application made by the mother of

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the petitioner, the Director, Bureau of Investigation, Punjab, Chandigarh, transferred the investigation to Crime Branch for the purpose of further investigation. Thereafter, the Crime Branch while further investigating the case concluded that the investigation conducted by the police was faulty and the petitioner was not involved in the present offence and rather the role of the other three persons was sought to be further investigated and for that purpose an appropriate application was moved before the learned trial Court for seeking reinvestigation of the case. The said application is now pending before the learned trial Court for 17.08.2021 for permission to carry out further investigation. It is further stated in the affidavit that an application has been filed for discharging the present petitioner and the separate report was also submitted in this regard to the Director, Bureau of Investigation, Punjab, Chandigarh, on 08.02.2021 for approval.

The learned counsel for the petitioner has submitted that the present petition is only for the grant of regular bail to the petitioner. He has submitted that the petitioner is in custody since 12.03.2020 which is about 1 year and 5 months and while investigating the case qua the petitioner no recovery was effected from the petitioner and now the police has filed an application for discharge of the petitioner. He has submitted that it is not the case of the police that if the petitioner is released on bail then there is any possibility that the petitioner may influence any witness or tamper with the evidence or may flee from justice. He has submitted that no such averment has been made in the affidavit filed by the State. He has further submitted that the petitioner is not involved in any other case and he

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has already suffered incarceration for about 1 year and 5 months and therefore, he may be considered for grant of regular bail.

On the other hand, Mr. Vishwajit and Mr. Aman Arora, Advocates, have caused appearance on behalf of complainant and they have opposed the grant of regular bail on the ground that investigation by the police was not fair and even if now there is transfer of the investigation, the petitioner does not deserve the concession of bail because there is every likelihood that the petitioner may influence witnesses.

I have heard learned counsels for the parties.

The custody of the petitioner which is about 1 year and 5 months is not in dispute and it is also not in dispute that the investigation qua the petitioner was completed and challan was also presented qua the petitioner on 10.06.2020 and thereafter, now the prosecution has filed an application before the learned trial Court for discharge of the petitioner in view of the fact that earlier investigation was a faulty investigation done by the police and now the matter has been transferred to the Crime Branch and appropriate application has also been filed before the learned trial Court seeking permission for further investigation. The present application is only for the grant of bail and on one hand, the Court has to strike a balance between the freedom of an individual guaranteed under Article 21 of the Constitution of India and on the other hand, factors like possibility of influencing any witness or tampering with evidence or fleeing from justice or the seriousness of the offence etc. In the present case, it is not the case of the State that in case the petitioner is released on bail then he may influence

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any witness or tamper with evidence or may flee from justice. In the present case, rather, the prosecution has filed an application before the learned trial Court for discharge of the petitioner which is pending consideration.

Therefore, keeping in view the totality of circumstances of the present case, this Court deems it fit and proper to grant regular bail to the petitioner. Accordingly, the present petition is allowed. It is ordered that the petitioner shall be released on bail on furnishing bail bond/surety bond to the satisfaction of the 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 only for the purpose of decision of present petition.

August 9, 2021.	(JASGURPREET SINGH PURI)
raj arora	JUDGE
Whether speaking / reasoned	Yes / No
Whether reportable	Yes / No