

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

(207)

CRM-M-32484-2021

Date of Decision : August 18, 2021

Harpalbinder

.. Petitioner

Versus

State of Punjab

.. Respondent

(Through Video Conferencing)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Ms. Sarika Gupta, Advocate, for the petitioner.

Mr. Sandeep Kumar, Deputy Advocate General, Punjab.

HARSIMRAN SINGH SETHI J. (ORAL)

Present petition has been filed under Section 439 Cr.P.C for the grant of regular bail to the petitioner in respect of FIR No.145 dated 14.10.2019 registered under Sections 307, 328 IPC (Section 302 and 34 IPC added later on) at Police Station Mahilpur, District Hoshiarpur.

Learned counsel for the petitioner submits that as per the allegations, Amarjit Kaur @ Rano i.e. *nanad* of the deceased and the petitioner i.e. *jeth* of the deceased, were allegedly involved in poisoning the deceased Poonam Rattu. During the investigation, the police found that Amarjit Kaur @ Rano (*nanad* of the deceased) is innocent. The wife of the petitioner, who is also named Amarjit Kaur, was arrayed as accused along with the parents of the petitioner namely Gurdev Ram and Joginder Kaur. The son and the husband of the deceased were stated to be eye witnesses of the incident.

Learned counsel for the petitioner submits that during the trial, the said eye witnesses have not supported the prosecution version. Keeping

in view the said development, the wife of the petitioner namely Amarjit Kaur was extended bail by this Court while deciding CRM-M-42225-2020 and the parents of the petitioner namely Gurdev Ram and Joginder Kaur were also extended the benefit of regular bail while deciding CRM-M-19210-2021. Learned counsel for the petitioner submits that as the eye witnesses have failed to support the prosecution version and the other co-accused have already been granted the benefit of regular bail, the petitioner be also given the benefit of regular bail, on the ground of parity.

Notice of motion.

Custody certificate of the petitioner has been filed by the learned State counsel and the same is taken on record.

Mr. Sandeep Kumar, learned Deputy Advocate General, Punjab, who has joined the proceedings through video conference, keeping in view the service of advance copy of petition, accepts notice on behalf of the respondent-State.

Learned counsel for the respondent-State does not dispute the factum that eye witnesses have turned hostile during the trial and have not supported the version of the prosecution.

Learned counsel for the respondent-State has also conceded that the wife of the petitioner namely Amarjit Kaur and the parents of the petitioner namely Gurdev Ram and Joginder Kaur have already been granted the benefit of bail after the said development.

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

Once the eye witnesses of the incident have turned hostile during the testimony and after the said development, the co-accused of the

petitioner have already been granted the benefit of regular bail, the petitioner cannot be denied the said benefit, on the ground of parity. The benefit of parity can only be declined in case, any differentiating facts between two co-accused are pointed out. Learned counsel for the respondent-State has not pointed out any differentiating fact between the petitioner and the other co-accused namely Amarjit Kaur, Gurdev Ram and Joginder Kaur, who have been granted the benefit of regular bail after the eye witnesses turned hostile.

Keeping in view the above, the petitioner has also made out a case for the grant of regular bail as extended to the similarly situated co-accused.

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

Learned counsel for the petitioner undertakes that petitioner will not influence trial in any manner including influencing the witnesses and in case of default of the above undertaking, State will be at liberty to approach this Court for passing appropriate orders.

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.

August 18, 2021
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

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