

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

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**CRM-M-36000 of 2020
Date of Decision:20.09.2021**

Balwinder Kaur

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Mohd. Salim, Advocate,
for the petitioner.

Mr. H.S. Multani, AAG, Punjab

Mr. Gopal Singh Nahel, Advocate,
for the complainant.

AMOL RATTAN SINGH, J. (ORAL)

Vide this petition, the petitioner seeks the concession of 'regular bail' under the provisions of Section 439 of the Cr.P.C., upon FIR no.124, dated 10.06.2020, having been registered at Police Station Sadar Sangrur, alleging therein the commission of offences punishable under Sections 302, 34 of the IPC, (with Sections 201 and 460 of the IPC added later).

Alongwith this petition, CRM-M-8350 of 2021 was also filed by one Amarjit Singh @ Amar, with that petition having been allowed on 19.04.2021 and with the contention of the present petitioner as regards the merits of the case, having been rejected by this court vide that very order, which is reproduced

hereinbelow:-

“Case heard via video conferencing.

These two petitions have been filed under the provisions of Section 439 Cr.P.C., for grant of 'regular bail' to the petitioners, in the context of FIR No. 124 dated 10.06.2020, registered at Police Station Sadar, Sangrur, for the alleged commission of offences punishable under the provisions of Sections 302/201/460/34 of the IPC.

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Mr. Sidhu, learned counsel appearing for the petitioner in this case, i.e. Amarjit Singh @ Amar, submits that the petitioner is neither a beneficiary of the land or property of the deceased and though, as per the FIR, he is alleged to have been an active participant in the murder of the deceased, however subsequently, in the additional statement allegedly made by Gurpreet Singh son of Jagroop Singh (grand-son of the deceased), he was stated to be only standing at the doorway when the deceased was being inflicted injuries by the other accused.

Mr. Nahel, learned counsel for the complainant, submits that the petitioner being an active participant in the commission of the offence as per the FIR and even as per the aforesaid confessional statement, he was obviously standing on guard at the gate to warn those who were actually attacking the deceased, his complicity in the matter is in no way less than the other accused.

Learned counsel for the petitioner counters by saying that the occurrence having admittedly taken place at night, as a matter of fact there would be no need for any person to stand watch at the door.

He further submits that the petitioner being a 22 year old youth, having been in custody for more than 10 months now and with there being no other criminal case registered against him and, to repeat, he not being a beneficiary of the property of the deceased, he deserves to be admitted to bail.

Learned counsel for the State also reiterates what learned

counsel for the complainant has submitted and further submits that in the aforesaid circumstances the petitioner does not deserve to be admitted to bail.

Having considered the matter, though of course the complicity of the petitioner cannot be ruled out even if he was found to be standing at the gate, which would be seen by evidence led before the trial court, however in the entire circumstances of the case, this petition is allowed. The petitioner shall be admitted to bail upon his furnishing adequate bail bonds and surety bonds to the satisfaction of the learned trial court/Chief Judicial Magistrate/Duty Magistrate concerned.

It is made absolutely clear that admitting the petitioner to bail, naturally, does not reflect the opinion of this court on the actual merits of the case, for or against the petitioner, which would be a matter of evidence led before the trial court.

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Learned counsel for the petitioner in this case submits that the only evidence against the petitioner is an alleged disclosure statement made by a co-accused which is not admissible in evidence, and consequently, she being a lady with medical problems also and having been in custody for more than 10 months, she deserves to be admitted to bail.

Learned State counsel as also learned counsel for the complainant however point to the FIR itself, where the petitioner has been named as one of the members of the family (daughter-in-law of the deceased), who allegedly also got the house of the deceased transferred from his name.

Therefore, on merits, at this stage at least, I am not inclined to entertain this petition.

However, as regards her medical condition, since the prescription annexed as Annexure P-2 with the petition does not show any specific disease that she is suffering from, learned State counsel

would get the affidavit of a gazetted officer filed, annexing therewith a certificate from the jail doctor with regard to the medical condition of the petitioner.

Adjourned to 24.05.2021.

A photocopy of this order be placed on the file of the other connected case.”

Thereafter the matter remained pending due to non-filing of an affidavit on behalf of the respondent State as regards the medical condition of the petitioner.

Today an affidavit dated 10.09.2021, executed by the officiating Deputy Superintendent, New District Jail, Nabha, has been filed, which is ordered to be taken on record.

Alongwith the said affidavit, a medical report issued by the medical officer of that jail has also been annexed, which reads as follows:-

“This is to inform you that Balwinder Kaur w/o Gurmeet Singh is in New District Jail, Nabha. She is a known case of depression, Mild Hypertension. She is on medicine from DMC, Ludhiana. Currently, she is having mild symptoms of depression but due to medicine her symptoms are improving. Her condition is stable and satisfactory. She is under surveillance and her medicine is strictly given on time. She is on special diet and proper care is taken.”

That being so, with nothing seriously wrong with the petitioner, at least medically, I would see no ground to entertain this petition.

However, it is to be noticed that learned counsel for the petitioner had sought to argue the matter on merits again, with him further submitting that in the

meanwhile two other co-accused have been admitted to bail.

Obviously, this court already having already expressed its opinion as regards admitting the petitioner to bail on merits, the petition virtually stood dismissed on that date on that score; with it kept pending only to obtain the medical report, and with that having been received today, the petition is formally dismissed at this stage.

Learned counsel for the petitioner submits that the trial has not progressed at all.

If the petitioner files another petition on the ground of long custody, that would be considered on its own merits.

September 20, 2021
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(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	No