

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

**CRM-M No.37965 of 2020
Date of Decision : 19.03.2021**

Sukhwinder Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present : Mr. G.P.S. Ghuman, Advocate
for the Petitioner.

Mr. Ramandeep Sandhu, Sr. Dy. Advocate General, Punjab
for the Respondent/State.

Mr. Nitin Sherwal, Advocate for
Mr. Satish Goel, Advocate
for the Complainant.

SUDIP AHLUWALIA, J. (ORAL)

The instant Petition has been filed under Section 439 of the Code of Criminal Procedure seeking Regular Bail on behalf of the Petitioner in case FIR No.95, dated 26.10.2017, registered under Sections 302 of the Indian Penal Code, 1860 and Sections 25-27/54/59 of the Arms Act, 1959 at Police Station Kotwali Nabha, District Patiala.

2. Ld. Counsel for the Petitioner has submitted that his Client has remained in detention for more than three years even though he is innocent and has been falsely implicated. To substantiate this

contention, attention of the Court has been drawn to the fact that the Petitioner was not named in the FIR and that there is no eye-witness to state about his involvement in the occurrence. In addition statements given by two prosecution witnesses namely Rakesh (PW-2) and Sandeep Kumar (PW-4) in their respective cross-examinations have also been highlighted to impress upon the Court that these two material witnesses have not substantially supported the prosecution case.

3. The bail prayer has nevertheless been opposed on behalf of the State as well as the Complainant.

4. It may be mentioned that yesterday Mr. Satish Goel, Advocate had appeared on behalf of the Complainant and had sought a day's adjournment to show direct material regarding involvement of the Petitioner in the occurrence by way of statements of the eye-witnesses and the Ballistic Report, which submission has already been noted in the order passed yesterday i.e. 18.03.2021. But today Mr. Nitin Sherwal, Advocate, appearing in place of Mr. Satish Goel, Advocate, submits at the outset that Mr. Goel's submission yesterday was factually incorrect, and that it had been mistakenly made as it was in the context of a co-accused in the present case and not the present Petitioner. He has nevertheless opposed the bail prayer by contending that in any case there is substantial material showing involvement of the Petitioner, as

has emerged from the Deposition of PW-9 namely one Gurdeep Singh in the Ld. Trial Court, which was commenced on 13.02.2020 and was completed after his full cross-examination on 12.03.2020. The entire text of the statement of the said witness has been sent up by E-mail on behalf of the Complainant. Perusal of the same would go to show that the said witness had been approached by the Petitioner as well as co-accused who had confessed to their involvement in the murder of the deceased-Monik Jindal @ Mohni under the mistaken impression that he was the targeted individual named Amit Jindal.

5. In this view of the matter, this Court is of the opinion that at this stage, it would be premature to conclude that no reasonable ground exists to hold that the Petitioner is not involved in the concerned offence. Needless to mention, for the purpose of granting bail, the Court is not expected to go into minute details of evidence, which necessarily must be considered during a regular trial, and there should not be a mini trial on the basis of mere statements made by different witnesses in the Ld. Trial Court, during the course of trial itself.

6. Significantly, the aforesaid Deposition of PW-9 which was completed on 12.03.2020 after PWs 4 & 5 had already been examined between July to May, 2019 was well within the knowledge of the Petitioner before he filed the present petition for bail much later in the

month of November, 2020. He has therefore sought to get himself released on the basis of statements of two prosecution witnesses, who according to him, do not strongly support the prosecution case, but has chosen to suppress the incriminating statement of Gurdeep Singh (PW-9), which conduct cannot be condoned by this Court considering the gravity of the offence involved.

7. Dismissed.

March 19, 2021
Dpr

(SUDIP AHLUWALIA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No