

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

CRM-M-3125-2022(O&M)

Date of Decision:-19.05.2022

Nirmal Singh @ Nimma.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Ms. Ishma Randhawa, Advocate for the Petitioner.

Mr. Kirat Singh Sindhu, Deputy Advocate General, Punjab.

JASJIT SINGH BEDI, J. (ORAL)

The Prayer in this petition is for the grant of regular bail under Section 439 Cr.PC in case FIR No.0078 dated 23.05.2020 under Sections 302, 364, 34 IPC registered at Police Station Harike, District Tarn Taran.

The brief facts of the case are that the FIR came to be registered at the instance of Sukhdev Singh son of Hardeep Singh who stated that he had two daughters and one son. Simrandeep Kaur is the eldest daughter and his second daughter was Ramandeep Kaur. On 23.05.2020 he and his wife Jasbir Kaur along with their daughters Simrandeep Kaur and Ramandeep Kaur and niece Amandeep Kaur @ Soni were returning from their work on motor cycles. On one motor cycle he and his wife were travelling whereas on the other motor cycle both his daughters and niece were travelling.

About 1 Km from village Kota Data Patti on the road alongside Canal one

motor cycle came from the front side which was being driven by his nephew Gurjoban Singh and Nirmal Singh @ Nimma (the present petitioner) was sitting behind him. They stopped the motor cycle on which the three girls were travelling and both these accused attacked Ramandeep Kaur who fell down due to the injuries. Both of them forcefully abducted his niece Amandeep Kaur @ Soni by making her sit on their motor cycle and sped away. He followed them on his motor cycle. Gurjoban Singh who was driving the motor cycle, due to over speeding struck a vehicle and died on the spot. Injuries were also sustained upon the body of his niece Amandeep Kaur @ Soni. The present petitioner fled towards the fields. When he came back he saw that his daughter Ramandeep Kaur had died due to the injuries of *Datar* and *Kirch* whereas later on his niece Amandeep Kaur @ Soni who was seriously injured on account of the accident succumbed to her injuries. As per him the cause of grievance was that Gurjoban Singh was suspecting the character of his daughters and his niece and in connivance with the petitioner murdered his daughter and kidnapped his niece, who succumbed to injuries on account of the accident while Gurjoban Singh had abducted her and sped away on a motor cycle.

The Counsel for the petitioner submits that all the material witnesses have been examined and none of them have supported the prosecution case. Statement of PW-1 Sukhdev Singh (Annexure P-2), PW-2 Simrandeep Kaur (Annexure P-3) and PW-3 Jasbir Kaur (Annexure P-3) would clearly show that the said witnesses who are eye witnesses to the occurrence have not identified the accused in court. He further contends that in the absence of any substantive evidence of the eye witnesses there is no other connecting evidence against the Petitioner. Even otherwise, the

petitioner is in custody since 25.05.2020, the material witnesses having been examined and not having supported the case of the prosecution, the petitioner deserves the concession of regular bail. He relies upon the judgments of the Hon'ble Supreme Court in **Dr. Gokarakonda Naga Saibaba Vs. State of Maharashtra 2016(2) RCR (Criminal) 675** as well as of this Court in **CRM-M-27957-2015** titled as **Devender Singh @ Devender Chhabra @ Tintu Vs. State of Punjab Decided on 22.08.2016** to contend that the Court can consider the grant of bail once the material witnesses have been examined.

The Counsel for the State was directed to file an affidavit vide order dated 01.02.2022 to show as to what evidence was available on record to connect the petitioner with the allegations in the FIR. A reply in the shape of affidavit of Mr. Maninder Pal Singh, DSP, Sub Division Patti, District Tarn Taran dated 17.05.2022 has been filed. A perusal of the reply would reveal that the only incriminating evidence now against the petitioner is the alleged recovery of the weapon of offence i.e. *Kirch* at the instance of the petitioner. There is no denial to the fact that the witnesses have turned hostile.

I have heard counsel for both the sides at length.

A perusal of the deposition of PW-1 to PW-3 would reveal that they were the purported eye witnesses to the occurrence and have not identified the petitioner in Court. They have thus not supported the case of the prosecution and have turned hostile. So far as the recovery is concerned, it would be a matter of final adjudication at the trial whether the said recovery of *Kirch* is sufficient to affix the liability of the petitioner when there is no substantive evidence of the eye witnesses. Admittedly the

petitioner is in custody since 25.05.2020. Only 06 of the 28 cited witnesses have been examined and thus trial is not likely to be concluded in near future. Therefore, the further incarceration of the petitioner is not required.

Keeping in view the aforesaid facts and the period of custody undergone by the petitioner, without commenting on the merits of the case, the present petition is allowed and the petitioner-**Nirmal Singh @ Nimma** son of Sh. Dalbir Singh is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing that he is not involved in any other crime other than the present case.

If the petitioner indulges in similar offence for which he is currently charged, the State would be at liberty to move an application for cancellation of bail.

Petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

May 19, 2022
Vinay

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