

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

CRM-M-8932-2022 (O&M)

Date of decision: 14.11.2022

Sonu Desawar @ Kanchan

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Shrey Goel, Advocate and
Mr. Shvetanshu Goel, Advocate for the petitioner.

Mr. Harkanwar Jeet Singh, AAG Punjab.

HARNARESH SINGH GILL, J. (ORAL)

The petitioner has filed this petition under Section 439 of Cr.P.C. for grant of regular bail in case FIR No. 63 dated 30.07.2016, registered under Sections 302, 201 IPC read with Section 34 IPC, at Police Station Sarabha Nagar, District Ludhiana.

Learned counsel for the petitioner submits that the FIR was registered on the statement of Sachin Kumar, brother of Arun Kumar @ Annu (since deceased); that the petitioner has falsely been implicated in the present case; that as per the complainant, Arun Kumar @ Annu, left the house on 28.07.2016 at about 7.10 p.m. but he did not name any person and dead body of Arun Kumar @ Annu was recovered from the canal 31.07.2016; that as per the complainant, there was an injury on the head of the deceased; that the petitioner was also not named by Santosh Devi-mother of the deceased, in her statement recorded under Section 161 Cr.P.C. and in the petition i.e. CRM-M-

11093-2017 filed for transfer of investigation to some independent agency; that 07 persons named by Santosh Devi in the said petition were found to be innocent during the investigation and none of those 07 persons named the petitioner; that Saloni wife of the complainant also not named the petitioner in her statement recorded under Section 161 Cr.P.C.; that in their supplementary statements recorded on 25.07.2019 i.e. after 02 years, Poonam Rani-sister of the deceased, did not name the petitioner, whereas his mother named the petitioner stating therein that at one stage, Arun Kumar @ Annu had slapped co-accused Ravi Kumar @ Billa and on the asking of the petitioner said Ravi Kumar @ Billa took Arun Kumar @ Annu with him and committed the murder of Arun Kumar @ Annu; that the murder of Arun Kumar @ Annu was planned by the petitioner and that co-accused Ravi Kumar @Billa has been granted regular bail by a Coordinate Bench vide order dated 05.11.2020.

Learned counsel for the petitioner further points out that the petitioner was indicted in the present case after two years of the alleged occurrence; that the charges have been framed and out of 21 prosecution witnesses, only Rajinder Kumar (PW-1), who is a distant relative of the deceased, has been examined and is stated to be turned hostile and that the petitioner has been in custody since 28.09.2020.

Learned State counsel, while vehemently opposing the prayer for bail, submits that the petitioner has actively participated in the crime and by hatching a conspiracy has committed the murder of Arun Kumar @ Annu. There was injury on the dead body of Arun Kumar @ Annu. However, he does not dispute the custody period of the petitioner and the facts that the

petitioner was involved in the present case after two years of the occurrence and co-accused Ravi Kumar @ Billa is on bail. He submits that out of 21 prosecution witnesses, only 01 witness has been examined.

I have heard the learned counsel for the parties.

The petitioner has been in custody since 28.09.2020. The petitioner was not named in the FIR, the petitioner was not named by the complainant, his mother, wife of the complainant and sister of the deceased but later on, i.e. after two years of the occurrence, the petitioner was named by the mother of the deceased, whereas sister of the deceased, Poonam Rani, has not named the petitioner. Co-accused Ravi Kumar @ Billa, is on regular bail. Out of 21 prosecution witnesses, only 01 was examined and he is stated to be turned hostile. Remaining 20 prosecution witnesses are yet to be examined. Therefore, the conclusion of the trial would take time. Hence, no useful purpose would be served by keeping the petitioner behind the bars.

In view of the above, without commenting anything on the merits, lest it should prejudice the case of either side, the petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the learned trial Court/Duty Magistrate.

(HARNARESH SINGH GILL)
JUDGE

14.11.2022
Mangal Singh

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No