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

CRM-M-8538-2021

Date of Decision: 01.08.2022

Ashish Kumar

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. H.S. Sidhu, Advocate for
Mr. Ashish Soi, Advocate,
for the petitioner.

Mr. Davinder Bir Singh, DAG, Punjab.

JASGURPREET SINGH PURI, J. (ORAL)

The present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case bearing FIR No.61 dated 04.04.2020, under Sections 302 & 201 of the IPC, registered at Police Station Bhagopur, Jalandhar.

It has been submitted by learned counsel for the petitioner that the petitioner is in custody since 04.04.2020 which is approximately 2 years and 4 months and 4 out of 12 cited witnesses have already been examined. He further submitted that the complainant, namely, Satnam Singh has also been examined. He also submitted that the allegations in the present case were based upon the last seen theory and the entire case is dependent upon the circumstantial evidence whereby as per the allegations the petitioner was seen with the deceased and after some time, the other person had died

and both of them were holding the bottles of liquor. He further submitted that the entire case is based upon the suspicion and circumstantial evidence and the petitioner has already undergone approximately 2 years and 4 months and the complainant has since been examined and the trial of the case may take long time, and therefore, has prayed that the petitioner may be considered for the grant of bail.

On the other hand, Mr. Davinder Bir Singh, learned DAG, Punjab has stated that it is correct that the petitioner is in custody since 04.04.2020 and 4 out of 12 witnesses have been examined and the complainant has also been examined in the present case. He further submitted that it is also correct that the entire case is based upon the circumstantial evidence and last seen theory.

I have heard the learned counsel for the parties.

The petitioner is in custody since 04.04.2020, which is about 2 years and 4 months and as per the allegations contained in the FIR, the prosecution story is based upon the circumstantial evidence although it is stated in the FIR that the petitioner was seen along with the deceased before his death and holding the bottles of liquor but the complainant has already been examined in the present case. Furthermore, it is not the case of the State nor it has been argued by the learned State counsel that in case the petitioner is released on bail then he may abscond or flee from justice or may influence any witness, therefore, in view of the aforesaid facts and circumstances, this Court is of the view that it is a fit case to grant bail to the petitioner.

Consequently, the present petition is allowed and the petitioner

is ordered to be released on bail on furnishing bail bond/surety bond to the satisfaction of the trial Court/Duty Magistrate concerned, if not required in any other case.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of present petition.

01.08.2022

Bhumika

(JASGURPREET SINGH PURI)
JUDGE

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| 1. Whether speaking/reasoned: | Yes |
| 2. Whether reportable: | Yes/No |