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

CRM-M-9649-2022
Date of decision : 11.03.2022

Sunil Kumar @ Sonu @ Suneel Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Naveen Bawa, Advocate for the petitioner.

Mr. Sarabjit S. Cheema, AAG, Punjab.

VIKAS BAHL, J. (ORAL)

The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR bearing No. 58 dated 18.04.2021 under Sections 302, 506 and 34 of IPC, 1860 registered at Police Station Sadar Khanna, District Ludhiana.

Learned counsel for the petitioner has submitted that in the present case, even a perusal of the FIR would show that only one injury has been caused to the deceased, who is the father of the complainant Deepak Kumar and that injury has been caused by the co-accused Vikas Kataria. Although, the petitioner is stated to be present at the time of the occurrence but no injury or overt act has been attributed to the petitioner. It is further submitted that the complainant has been examined as PW-2 and he has not supported the case of the prosecution. Even the other alleged eye witness PW-1

Bal Chand as well as PW-3 Abhishek, son of the deceased have not supported the case of the prosecution. It is submitted that the petitioner is not involved in any other case and has been in custody since 21.04.2021 and there are 15 witnesses, out of which 11 witnesses are yet to be examined and thus, the trial is likely to take time, moreso in view of the present COVID-19 pandemic situation. It is contended that the co-accused of the petitioner namely Vikram @ Bikram has already been granted the concession of regular bail by this Court vide order dated 09.02.2022 passed in CRM-M-4711-2022..

Learned State counsel has opposed the present application for regular bail and has submitted that as per the FIR, the petitioner was also present at the spot. It is submitted that the co-accused of the petitioner namely Vikas Kataria, as per the FIR, had given injury on the head of the deceased, on account of which the deceased had died. The other facts as stated by learned for the petitioner have not been disputed by learned State counsel.

This Court has heard learned counsel for the parties and has perused the paper book.

It is not in dispute that as per the FIR, the injury caused to the deceased has been attributed to the co-accused Vikas Kataria. The petitioner has not been attributed any injury nor has been stated to have committed any overt act. It is also not in dispute that PW-2 Deepak, who is the complainant, has been examined and he had not identified the accused persons present in the Court and thus, had not supported the case of the prosecution. Even PW-2 Bal Chand, who is stated to be an eye witness, had also stated that he did not witness the said occurrence. PW-3 Abhishek, who is the son of the deceased, had also stated that he did not make any statement before the police and he did not identify the accused persons present in the Court. It is apparent that the

three eye witnesses have not supported the case of the prosecution. The petitioner is not involved in any other case and has been in custody since 21.04.2021 and there are as many as 15 witnesses out of which 11 witnesses are yet to be examined and thus, the trial is likely to take time, moreso in view of the present COVID-19 pandemic situation. The co-accused of the petitioner namely Vikram @ Bikram who is similarly placed as the present petitioner has already been granted the concession of regular bail by this Court vide order dated 09.02.2022 passed in CRM-M-4711-2022.

Keeping in view the facts and circumstances, the present petition is allowed and petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate and subject to his not being required in any other case.

However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial Court would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

It is made clear, in case, the petitioner threatens or influences any witness, it would be open to the State to move an application for cancellation of the present regular bail granted to the petitioner

11.03.2022*Pawan***(VIKAS BAHL)
JUDGE****Whether speaking/reasoned:- Yes/No****Whether reportable:- Yes/No**