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

CRM-M-12678-2021

Date of Decision: 22.09.2022

Chhinda Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Ms. Anmol Advocate for
Mr. K.S. Brar, Advocate,
for the petitioner.

Mr. Amit Rana, Sr. 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.44 dated 26.04.2020, under Sections 302 & 34 of the IPC, registered at Police Station Makhu, District Ferozepur.

It has been submitted by learned counsel for the petitioner that the petitioner is in custody since 30.04.2020 which is about 2 years and 5 months. She further submitted that till date only one witness has been examined i.e. only one official witness and the delay has been caused at the hands of the prosecution themselves as they could not complete the investigation on time. She has referred to the zimni orders passed by the learned trial Court to show that the charges were framed on 07.07.2022, and thereafter, when the matter came up for hearing before the learned trial

Court on 04.08.2022, it was observed by the learned trial Court that summons issued to PWs Darshan Kaur, who is the complainant, have been received back duly served and that of PW Sukha has been received back served through his son but both the witnesses have not appeared despite service and hence, bailable warrants were issued to them in the sum of Rs.5,000/- with one surety in the like amount each and the matter was adjourned to 23.09.2022. Thereafter, vide order dated 22.08.2022, even the official witnesses did not turn up despite service, and therefore, bailable warrants were issued to them also. Again the matter was taken up by the learned trial Court on 02.09.2022 and again no PW was present and thereafter, the matter was taken up on 20.09.2022 and on that day, one PW, who is the official witness i.e. ASI Pargat Singh was present and he was examined. It has been further observed in the order that in fact the bailable warrants were issued to the SC Gursahib Singh, were received back duly served but still he has not come present and now non-bailable warrants were issued against him and similarly non-bailable warrants were issued to PW Dr. Hargun Singh. The learned counsel for the petitioner has also submitted that at the first instance the police had caused the delay earlier by filing the incomplete challan and by not completing the investigation on time and thereafter, when the charges were framed, the prosecution witnesses including the complainant herself did not turn up till date despite the bailable warrants issued for them and in this way, the entire trial has been delayed for no fault on the part of the petitioner.

Learned counsel for the petitioner has further submitted that even otherwise also the role attributable to the petitioner was raising a

lalkara and the allegations were that he had killed his own son along with some other persons. She also submitted that thereafter the allegations *qua* the petitioner were with regard to giving beatings to him, only vague and allegations were collective in nature. She further submitted that the petitioner is not involved in any other case and has got clean antecedents and he has already faced incarceration for about 2 years and 5 months, and therefore, he may be considered for the grant of bail.

On the other hand, Mr. Amit Rana, learned Sr. DAG, Punjab has stated that it is correct that the petitioner is in custody since 30.04.2020 and is not involved in any other case. He further submitted that it is also correct that only one witness, who is the official witness, has been examined till date and the complainant has not turned up for deposition despite the fact thatailable warrants have been issued against her.

I have heard the learned counsel for the parties.

The petitioner, who is a man of the age of about 60 years and has faced incarceration for about 2 years and 5 months. It is stated by learned counsel for the parties that the petitioner is not involved in any other case. The role attributed to the petitioner was that he initially raised a *lalkara* and thereafter, collectively gave beatings to the deceased. It appears that the delay has been caused at the hands of the police and thereafter, because of non-appearance of the complainant. Therefore,ailable warrants were issued to the complainant and the police official and on one date even non-ailable warrants were also issued to the official witnesses. Therefore, this Court is of the view that the petitioner deserves the concession of bail.

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.

22.09.2022

Bhumika

(JASGURPREET SINGH PURI)
JUDGE

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