

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

222

CRM-M-12633-2022
Decided on : 30.03.2022

Vikas Kataria @ Vikas Kumar

. . . Petitioner

Versus

State of Punjab

. . . Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

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

Mr. Rana Harjasdeep Singh, DAG, 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 No. 58 dated 18.04.2021 under Sections 302, 506 and 34 of the Indian Penal Code, 1860 registered at Police Station Sadar Khanna, Police District Khanna, District Ludhiana.

Learned counsel for the petitioner has submitted that in the present case, the FIR has been registered on the statement of Deepak Kumar, son of the deceased to the effect that the petitioner alongwith other co-accused persons has caused the death of Krishan Pal. It is further submitted that the said Deepak Kumar has been examined as PW-2 (Annexure P-3) and he has not supported the case of the prosecution and has specifically stated that he does not identify the

accused persons present in the Court and that the said persons have not committed the murder of the said Krishan Pal. Even PW-1 Bal Chand who is stated to be an eye witness has not supported the case of the prosecution and PW-3 Abhishek, who is the second son of Krishan Pal, has also stated that he does not identify the accused persons present in the Court and that he is seeing the accused persons including the petitioner for the first time. It is contended that the co-accused of the petitioner has already been granted the concession of regular bail in view of the fact that the star witnesses have not supported the case of the prosecution. It is further contended that the petitioner has been in custody since 21.04.2021 and he is not involved in any other case and there are as many as 15 witnesses out of whom, 11 witnesses are yet to be examined and thus, the trial is likely to take time.

Learned State counsel, on the other hand, has opposed the present application for regular bail and has submitted that as per the FIR, the petitioner alongwith other co-accused had committed the murder of the deceased Krishan Pal, father of the complainant-Deepak Kumar. The other facts as mentioned by learned counsel for the petitioner are not disputed by learned State counsel.

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

The FIR was registered on the statement of the complainant Deepak Kumar, son of the deceased Krishan Pal, who had alleged that the petitioner alongwith other co-accused had murdered his father

Krishan Pal. The said Deepak Kumar has been examined as PW-2 and in his examination in chief, he has specifically stated that he does not know as to who has murdered his father Krishan Pal and he does not identify the accused persons present in the Court on the said date and the said persons, which included the petitioner, have not committed the murder of Krishan Pal. To a similar effect, is the evidence of PW-3 Abhishek, who is the other son of the deceased and who is also stated to be an eye witness. Even the third eye witness i.e., PW-1 Bal Chand has specifically stated in his examination in chief that he has not witnessed any occurrence and that he did not identify the accused persons present in the Court on that day and the accused persons including the petitioner, have not committed the murder of Krishan Pal. There is no other eye witness to the occurrence. It is, thus, apparent that the star witnesses have not supported the case of the prosecution. The petitioner has been in custody since 21.04.2021 and he is not involved in any other case and there are 15 witnesses out of whom 11 witnesses are yet to be examined and thus, the trial is likely to take time.

Keeping in view the abovesaid facts and circumstances, the present petition is allowed and the 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 him 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 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.

(VIKAS BAHL)
JUDGE

March 30th, 2022
Mehak

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