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

**CRM-M-15070-2022
Date of Decision: 11.05.2022**

Harjit Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. R.S. Bains, Senior Advocate assisted by
Mr. Mohan Singh Chauhan, Advocate,
for the petitioner.

Mr. R.S. Thind, 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.19 dated 30.01.2021, under Sections 302, 201, 34 & 120-B of the IPC, registered at Police Station Kotwali Nabha, District Patiala.

Mr. R.S. Bains, Senior Counsel assisted by Mr. Mohan Singh Chauhan, Advocate has submitted that the petitioner is in custody, since 08.02.2021 which is more than one year and in fact all the material witnesses have been examined. He further submitted that it is a case where allegations against the petitioner and the other co-accused, namely, Harbalbir Singh was that both of them had killed one Jatinder Kumar and the another allegation was that the petitioner was having illicit relationship

with one Sarabjit Kaur, who is also a co-accused in the present case. He also submitted that the entire case is based upon the circumstantial evidence and also on the basis of the statement made by one eye-witness, namely, Chetan Dhiman and in fact the aforesaid Chetan Dhiman has also been examined and he did not support the prosecution version and was declared as hostile. He further submitted that be that as it may, all the material witnesses have now been examined and the entire case is based upon either last seen theory or on circumstantial evidence and therefore, the petitioner may be considered for the grant of regular bail.

Learned Senior Counsel for the petitioner further submitted that other similarly situated co-accused, namely, Harbalbir Singh has also been extended the benefit of regular bail by the learned trial Court and the petitioner is at parity with the aforesaid co-accused.

On the other hand, Mr. R.S. Thind, learned Deputy Advocate General, Punjab has submitted that it is correct that the petitioner is in custody since 08.02.2021. He has filed reply by way of affidavit of Deputy Superintendent of Police, Sub-Division Nabha, District Patiala. He further submitted that 6 out of 25 witnesses have been examined including the aforesaid Chetan Dhiman, who was one of the witness which according to the prosecution had seen the petitioner and the co-accused on a motorcycle near the canal.

I have heard the learned counsel for the parties.

The petitioner is in custody since 08.02.2021 and six witnesses including the aforesaid Chetan Dhiman have been examined. It is a case which is based upon the circumstantial evidence and one of the person,

namely, Chetan Dhiman, who according to the prosecution had seen the petitioner and the co-accused, has been examined and has turned hostile. The other co-accused, namely, Harbalbir Singh has already been extended the benefit of regular bail by the learned trial Court. All the material witnesses have already been examined. Furthermore, it is not the case of the State that in case the petitioner is released on bail then he may abscond or flee from justice or may influence the witness or may tamper with the evidence. Therefore, considering the totality of the circumstances of the present case, this Court deems it fit and proper 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.

11.05.2022*Bhumika***(JASGURPREET SINGH PURI)
JUDGE**

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