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

CRM-M-15319-2022

Date of Decision: September 19, 2022

KULBIR SINGH**....Petitioner(s)****VERSUS****STATE OF PUNJAB****....Respondent(s)****CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY**

Present: Mr. R.S. Rai, Senior Advocate with
Mr. Gautam Dutt, Advocate and
Mr. Deepak Jain, Advocate
for the petitioner.

Mr. M.S. Atwal, AAG, Punjab.

AMAN CHAUDHARY, J.(ORAL)

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in respect of FIR No.0097 dated 19.10.2017 under Sections 302/282/148/149/120-B IPC (Section 201 added later on) and Sections 25-27-54-59 of Arms Act, 1959, registered at Police Station Sadar Abohar, District Fazilka.

Learned Senior counsel for the petitioner submits that though the petitioner was named in the FIR, however, no overt act was attributed to him. He further submits that the co-accused Darshan Singh was attributed two shots with .315 pistol on the head of the deceased Balkaran Singh. The other co-accused Samarbir Singh, who was attributed a .12 bore gun shot on the chest of the deceased, had also been granted regular bail by this Court. Learned Senior counsel says that in fact the petitioner in the present case is on a better footing than the aforesaid Darshan Singh and also Samarbir

Singh to whom not only were their specific attribution but the injuries caused by them proved fatal. He further submits that out of 55 witnesses, only 5 have been examined. He also states that the petitioner has been in custody from the last 4 years and 2 months.

Learned Senior counsel refers to Annexure P-11, being an order passed by Coordinate Bench of this Court in CRM-M-13242-2020 in the case of Darshan Singh, wherein while granting him bail, it has been recorded that the learned counsel for the complainant had submitted that it was Darshan Singh who had fired the gun shot on the head of the victim resulting in his death.

Learned State counsel opposes the bail petition on the ground that the petitioner was present at the spot and there is a recovery of .315 pistol from him along with 3 live cartridges as also the vehicle involved in the crime. He is, however, unable to controvert the aforesaid submissions made by the learned Senior counsel. He also submits that there were 8 accused in all, 02 out of whom have since died, one Manpreet Singh @ Happy is still on the run and 4 have been granted bail including co-accused-Darshan Singh. It is his further submission that there are two more FIRs lodged against the petitioner, in which he stands convicted. He has also produced the custody certificate which is taken on record, as per which the custody of the petitioner is 4 years and 2 months.

Heard learned counsel for the parties at some length.

Keeping in view the facts and circumstances of the case, especially the fact that though the petitioner was named in the FIR but there

is no specific attribution to him; his co-accused Darshan Singh has already been granted bail with whom petitioner is at parity; the petitioner has been in custody from the last 4 years and 2 months; out of 55 prosecution witnesses only 05 have been examined so far; the trial is likely to take some time thus his further detention behind the bars would not serve any useful purpose, the present petition for grant of regular bail deserves to be allowed.

Resultantly, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate concerned and subject to him not being required in any other case. The petitioner shall abide by the following conditions:-

- “1. The petitioner will not tamper with the evidence during the trial.*
- 2. The petitioner will not pressurize/ intimidate the prosecution witnesses.*
- 3. The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.*
- 4. The petitioner shall not commit an offence similar to the offence of which, he is an accused, or for commission of which he is suspected of.*
- 5. The petitioner shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/ her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.*
- 6. The petitioner shall not in any manner misuse his liberty.*
- 7. Any infraction shall entail in withdrawal of the benefit granted by this Court.”*

This Court makes it clear that the observations made herein above are limited for the purpose of present proceedings and would not be

construed as any opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

19.09.2022
Sangeeta

(AMAN CHAUDHARY)
JUDGE

Whether reasoned/speaking: Yes/No
Whether reportable: Yes/No