

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

220

CRM-M-15698-2022  
Decided on : 04.08.2022

Devender

. . . Petitioner

Versus

State of Haryana

. . . Respondent

**CORAM: HON'BLE MR. JUSTICE VIKAS BAHL**

PRESENT: Mr. Jagjeet Beniwal, Advocate for  
Mr. Ravi Malik, Advocate  
for the petitioner.

Mr. Munish Sharma, AAG, Haryana.

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**VIKAS BAHL, J. (Oral)**

This is second petition filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No. 40 dated 24.11.2020 under Sections 201, 302, 328 and 379 of the Indian Penal Code, 1860 registered at Police Station GRP Jind, District Jind.

Learned counsel for the petitioner has submitted that the petitioner has been in custody since 23.12.2020 and there are as many as 18 prosecution witnesses out of whom, only two witnesses have been examined and thus, the trial is likely to take time. It is further submitted that the petitioner is not involved in any other case and a perusal of the FIR would show that although, the death of the deceased had taken place on 28.10.2020 but the FIR has been registered on 24.11.2020 i.e.

after a delay of more than 26 days. It is contended that even in the complaint given by the father of the deceased, he had stated that as per his personal information, the deceased had died on account of consuming some intoxicant substance and he had a suspicion that the present petitioner had killed the deceased by administering him excessive quantity of intoxicant substance in greed of money. It is further contended that in the FIR, there was no basis stated by the complainant for raising the said suspicion and there is no eye witness in the present case. It is argued that even as per the best case of the prosecution, which comes out from the disclosure statement of the petitioner, it is apparent that the petitioner had no intention to kill the deceased and both of them were consuming smack.

Learned State counsel has opposed the present application for regular bail and has submitted that as per the disclosure statement of the petitioner, after seeing the money which the deceased was carrying i.e. Rs.4,000/-, the petitioner had become greedy and in order to take the said money, he had administered an over dose of the intoxicant substance to the deceased and had taken Rs.4,000/- as well as the mobile phone of the deceased and had sold the said mobile phone to Kavita for Rs.800/- and later on, when the petitioner came to know that the deceased had died, he took the mobile phone back from the said Kavita and the said mobile phone was recovered from the house of the petitioner, alongwith a katori (bowl) and two syringes.

This Court has heard learned counsel for the parties and has

perused the paperbook.

The petitioner has been in custody since 23.12.2020 and the challan in the present case has already been presented and there are as many as 18 prosecution witnesses, out of whom, only two witnesses have been examined and thus, the trial is likely to take time. Even the earlier bail application of the petitioner was withdrawn on 29.11.2021 at that stage and even thereafter, a period of more than 7 months has lapsed and 16 witnesses still remain to be examined. The petitioner is not involved in any other case. The death of the deceased had taken place on 28.10.2020, whereas the FIR has been registered on 24.11.2020 i.e. after a delay of more than 26 days. Even the father of the deceased had stated that as per his personal information, the deceased had died on account of consuming some intoxicant substance and it was on the basis of suspicion alone that he had stated that it was the present petitioner who had given excessive quantity of intoxicant substance to the deceased in greed of money. There is no eye witness in the present case.

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

04.08.2022  
*Mehak*

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