

249

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

**CRM-M-18462-2022
Date of Decision: 09.05.2022**

Mehboob Khan

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Navkiran Singh, Advocate,
for the petitioner.

Mr. R.S. Thind, DAG, Punjab.

JASGURPREET SINGH PURI, J. (ORAL)

This is the third petition filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case bearing FIR No.89 dated 06.10.2017, under Sections 302, 148, 149 & 120-B of the IPC, registered at Police Station Banur, District Patiala.

It has been submitted by learned counsel for the petitioner that although this is a successive bail petition filed by the petitioner and earlier his bail petition was dismissed on 06.10.2020 in CRM-M-1659-2020 but it is a case where the petitioner is in custody from 13.10.2017 which is more than 4½ years and the trial is going at a very slow pace and only 11 out of 33 witnesses have been examined and all the material witnesses have been examined. He further submitted that as per the allegations, the role

attributed to the petitioner was that he had given a *toka* blow on the deceased whereas in fact the petitioner was falsely implicated in the present case. He also submitted that be that as it may the other co-accused, namely, Sandeep Kaur, Sukhchain Singh and Mohinder Singh have been granted bail vide Annexures P-5 to P-7 and further submitted that considering the long custody of the petitioner and also the fact that the other co-accused have been granted bail and the material witnesses have already been examined, the petitioner may be considered for the grant of regular bail.

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 13.10.2017 and 11 out of 33 witnesses have been examined and all the material witnesses have been examined. He further submitted that it is also correct that the other co-accused as stated above have been granted bail. However, he has opposed the grant of bail to the petitioner on the ground that the role attributed to the petitioner was giving of a *toka* blow on the deceased.

I have heard the learned counsel for the parties.

Although it is a successive bail petition but the earlier bail petition of the petitioner was dismissed on 06.10.2020, which is more than 1½ years and now custody of the petitioner has exceeded to 4½ years and all the material witnesses have been examined as per the learned counsel for the parties. Therefore, the earlier dismissal of the bail petition would not come in the way for the purpose of the consideration of the present bail petition. This Court does not wish to make any observation on the merit of the case but this Court certainly would consider the bail petition of the

petitioner on the basis of his custody which is more than 4½ years and the fact that the material witnesses have already been examined. Furthermore, it is not the case of the State that in case the petitioner is released on regular bail then he may abscond or flee from justice or may influence the witness, therefore, considering the aforesaid facts and circumstances especially the custody of the petitioner, 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.

09.05.2022

Bhumika

(JASGURPREET SINGH PURI)
JUDGE

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