

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

CRM-M-18801-2022 (O&M)

Date of decision: 27.10.2022

Vipan Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. S. S. Salar, Advocate
for the petitioner.

Mr. S. S. Goripuria, DAG, Punjab.

Mr. Gazi Mohd. Umair, Advocate
for the complainant.

ARVIND SINGH SANGWAN, J. (Oral)

This is the second petition that has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 0038 dated 18.06.2019, registered under Sections 308 and 34 of the IPC (Charge framed under Sections 304/34 IPC) at Police Station Sandaur, District Sangrur.

Learned counsel for the petitioner submits that the new ground for filing the present petition is that the entire prosecution evidence has been concluded, therefore, there is no possibility for the petitioner to tamper with the prosecution witness and also on the ground that the petitioner is in judicial custody for the last more than 03 years and 03 months.

Learned counsel for the petitioner, at the very outset, has relied upon order dated 18.04.2022 passed in CRM-M-7480-2022, vide which co-accused Gaurav Kumar has been granted the concession of regular bail by this Court. The operative part of the order reads as under:

“Learned counsel for the petitioner submits that new ground for filing this second petition is that statements of the complainant and private witnesses have been recorded and the petitioner is in custody for the last 02 years and 09 months. It is further submitted that as per allegations in the FIR, registered at the instance of Balwinder Singh, his father was working at Water Supply Works in Village Sandaur and he used to recover the bills of the department from the people and used to tell him that petitioner Gaurav, Bhuchar and their father Gogi used to raise dispute and abuse him. On 16.06.2019, his father had gone to Sandaur regarding his works and recovery of bills. The complainant’s elder parental uncle Sodhi Singh had also gone to Sandaur for jobs. He told on phone that somebody has caused injuries to Labh Singh and thrown him near the pond of Village Sandaur. When the complainant along with his cousin Simanpreet Singh reached at the spot and took his father to the hospital. His father Labh Singh told that Gaurav, Bhuchar and Gogi gave him beatings. Later on, Labh Singh died in a private hospital.

Learned counsel further submits that now statements of complainant Balwinder Singh, who appeared as PW1 and Simanpreet Singh have already been recorded by the trial Court. It is also submitted that there is lot of variations in both these witnesses and it will be a matter of trial whether the petitioner has, in fact, committed the offence with the motive that the deceased was asking to deposit the water bills of the department. It is next submitted that since the private witnesses, who are not eyewitnesses, have already been examined, there is no apprehension of extending any

threat to other witnesses, who are official witnesses. Learned counsel has lastly argued that medical evidence did not suggest the manner, in which the injuries were caused to the injured.

Learned State counsel has filed status report by way of affidavit of Investigating Officer/ASI Charanjit Singh, Police Station Sherpur, District Sangrur as well as custody certificate, in the Court today. In the affidavit, it is stated that the complainant has alleged that his father told him that petitioner Gaurav, Bhuchar and Gogi used to threaten him, when he asked for payment of the bills. They caused injuries to his father Labh Singh and he died later on. It is further stated that during the investigation, one Manohar Lal was found innocent and Sections 302 & 308 IPC were deleted and Section 304 IPC was added.

After hearing learned counsel for the parties, without commenting anything on merits of the case and considering the aforesaid facts and circumstances of the case, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate, concerned.”

Learned counsel for the petitioner further submits that the allegations against the petitioner are identical to that of aforesaid co-accused and statements of the complainant as well as a private witness, who appeared as PW-1 and PW-2, respectively, have already been recorded as noticed in the earlier order also.

Learned counsel for the petitioner further submits that conclusion of the trial may take a long time, therefore, the petitioner may be enlarged on regular bail.

Learned Stated counsel, assisted by learned counsel for the complainant, on the basis of the affidavit of the Investing Officer, has not disputed the factual position that complainant as well as private witness have already been examined. It is also not disputed that the prosecution evidence is almost complete.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the aforesaid submissions of learned counsel for the parties and also in view of the fact that the petitioner is in judicial custody for the last 03 years, 03 months and 24 days, the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaq Magistrate, concerned.

27.10.2022

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No