

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

(104 + 213)

CRM-M-19275-2022 (O&M)

Date of decision: - 30.11.2022

Gaurav alias Gotta

...Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Yashpal Thakur, Advocate, for the petitioner.

Mr. Tarun Aggarwal, Sr. DAG, Punjab.

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VIKAS BAHL, J. (ORAL)

CRM-31561-2022

This is an application filed for grant of leave under Rule 3/A(1) of Chapter VI, Part B, Volume V of Punjab and Haryana High Court Rules and Orders to file the present petition.

In view of averments made in the application, the same is allowed and leave is granted under the aforesaid Rules and Orders to file the present petition.

CRM-M-19275-2022

Prayer in the present petition is for grant of regular bail to the petitioner in FIR No.21 dated 26.03.2019, registered under Sections 302, 120-B read with Section 34 IPC, at Police Station Nayagaon, District SAS Nagar.

Learned counsel for the petitioner has submitted that the petitioner is in custody since 26.03.2019 (more than 3 years and 8 months) and the investigation is complete and the challan has been presented and there are 25 prosecution witnesses, out of which, 6 have been examined and thus, the conclusion of trial is likely to take time and the petitioner is not involved in any other case. It is further submitted that in the present case, the FIR has been got registered by Usha Rani, who is aunt of the deceased Rakesh Kumar, on the basis of suspicion and the said Usha Rani is not an eye witness. It is also submitted that there is no eye witness in the present case and the entire case is based on circumstantial evidence. It is argued that as per the case of the prosecution, the deceased as well as petitioner and other co-accused had gone to the house of Kiran and even Kiran has been examined as PW-3 and she in her statement had stated that on 25.03.2019, birthday of Mohit was to be celebrated and after the cake ceremony had taken place, she had gone out to take drugs at that time and when she came back, she found that the said Rakesh Kumar @ Raman had died. It is thus submitted that even she is not an eye witness in the present case. It is stated that keeping in view the custody of the present petitioner and the stage of the trial, the petitioner deserves the concession of regular bail.

On the other hand, learned State Counsel has opposed the present petition for grant of regular bail to the petitioner and has submitted that the petitioner, along with co-accused Mohit and Ranjit Singh, has been named as an accused in the FIR itself by Usha Rani, who had stated that she had a strong suspicion that the said three persons had

committed the murder of Rakesh Kumar. It is further submitted that the petitioner and other co-accused were last present along with the deceased in the house of Kiran and thus, in the present case, the entire chain of circumstances stands *prima facie* completed.

This Court has heard the learned counsel for the parties and has perused the paper book.

In the present case, the petitioner has been in custody since 26.03.2019 (more than 3 years and 8 months) and the investigation is complete and the challan has been presented and there are 25 prosecution witnesses, out of which, 6 have been examined and thus, the conclusion of trial is likely to take time and the petitioner is stated to be not involved in any other case. There is no eye witness in the present case and the case is based on circumstantial evidence. The FIR has been registered on the statement of Usha Rani, who had named the present petitioner and other persons on the basis of suspicion. Moreover, Kiran in whose house the birthday party of Mohit was being celebrated and where the petitioner, other co-accused and the deceased had gone on the date of occurrence, even as per the case of the prosecution, had also not seen the occurrence as she had stated that she had gone out to take drugs and when she came back, she saw the dead body of the deceased.

Keeping in view the abovesaid facts and circumstances, more so, the period of custody of the present petitioner and the stage of the case and also the fact that he is not involved in any other case, the present petition is allowed and 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, subject to him not being required in any other case.

However, it is made clear that in case, any act is done by the petitioner to threaten the complainant or any of the witnesses, then it would be open to the State to move an application for cancellation of bail granted to the petitioner.

Nothing stated above shall be construed as an 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.

Pending application, if any, stands disposed of in view of the aforesaid order.

**November 30, 2022**  
naresh.k

**( VIKAS BAHL )**  
**JUDGE**

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|----------------------------|-----|
| Whether reasoned/speaking? | Yes |
| Whether reportable?        | Yes |