

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(208)

CRM-M-27749-2021

Date of decision: - 08.07.2022

Gagandeep Singh @ Gagi

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Manish Kumar Singla, Advocate
and Ms. Shikha Singla, Advocate,
for the petitioner.

Mr. Sukhbeer Singh, AAG, Punjab.

VIKAS BAHL, J. (ORAL)

This is a second petition under Section 439 Cr.P.C. for grant of regular bail in FIR No.103 dated 01.05.2020, registered under Sections 302, 120-B and 34 IPC, at Police Station Bhawanigarh, District Sangrur.

Learned counsel for the petitioner has submitted that the petitioner has been in custody since 02.05.2020 (more than 2 years, 2 months and 6 days) and there are 23 prosecution witnesses, none of whom have been examined and thus, the trial is likely to take time. It is further submitted that the petitioner has been falsely implicated in the present case and even as per the FIR, the fatal injury has been attributed to co-accused Manpreet Singh, who is stated to have given a sword blow in the stomach of deceased Varinder Singh @ Bittu. It is also submitted that the injury attributed to the present petitioner with a stick (*danda*) is on the

palmer aspect of the left hand of the Varinder Singh @ Bittu, which has been declared as simple in nature whereas death had occurred on account of injury caused by co-accused Manpreet Singh. It is further submitted that the petitioner is not involved in any other case and also undertakes that if he is released on bail he would not influence or threaten any witness. It is also submitted that co-accused of the petitioner, namely, Lakhvir Singh @ Laki, Harpreet Singh and Bahadur Singh, have already been granted the concession of regular bail by a Co-ordinate Bench of this Court vide order dated 25.01.2021 passed in CRM-M-34652-2021 and other connected matters.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that in the present case, the FIR has been registered on the statement of Parminder Singh @ Pindi, who has alleged that his maternal aunt Malkiat Kaur was married to his father's brother Gurmail Singh and Varinder Singh @ Bittu was one of their sons. It is further alleged in the FIR that Lakhvir Singh, who is the brother of the deceased, was married to one Navpreet Kaur and while the said Lakhvir Singh was in jail, then, co-accused Manpreet Singh, who is also related to the complainant party started frequently visiting the house of said Lakhvir Singh to meet his wife Navpreet Kaur and on account of the same enmity arose between Varinder Singh @ Bittu (since deceased) and Manpreet Singh (main accused) and the said co-accused Manpreet Singh along with 7-8 persons including the present petitioner had attacked the deceased and the said Manpreet Singh had given sword blow in the stomach of the above-said Varinder Singh @ Bittu by saying that

he is being taught a lesson for stopping Navpreet Kaur from meeting him and one injury has also been attributed to the present petitioner with a stick (*danda*) on the palmer aspect of left hand of Varinder Singh @ Bittu. It is also submitted that a perusal of the FIR would show that all the accused persons after hatching a criminal conspiracy had caused the death of Varinder Singh @ Bittu. The other factual aspects however have not been disputed by learned State counsel.

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

The petitioner has been in custody since 02.05.2020 (more than 2 years, 2 months and 6 days) and there are 23 prosecution witnesses, none of whom have been examined and even the charges have not been framed, thus, the trial is likely to take time. The earlier bail petition for regular bail filed by the petitioner was withdrawn on 30.04.2021, at that stage and even after the said date, a period of one year and two months has elapsed and the trial has not made any substantial progress and even the charges have not been framed and thus, the said aspect is a change in circumstance so as to entitle the present petitioner to file the present second bail petition. The petitioner is stated to be not involved in any other case. The fatal injury has been attributed to co-accused Manpreet Singh and the petitioner has been attributed with one injury with a stick (*danda*) on the palmer aspect of left arm and the same has been declared as simple in nature. The co-accused of the petitioner, namely, Lakhvir Singh @ Laki, Harpreet Singh and Bahadur Singh, have already been granted the concession of regular bail by a Co-ordinate

Bench of this Court vide order dated 25.01.2021 passed in CRM-M-34652-2021 and other connected matters. The questions, as to whether the petitioner also participated in the commission of the alleged offence and if so, whether he conspired with the main accused for causing the death of Varinder Singh @ Bittu, are to be finally decided during the course of the trial.

Keeping in view the above-said 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, it is made clear that in case, any act is done by the petitioner to threaten the complainant, prosecutrix 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 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 petition.

July 08, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes
Yes