

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(205)

CRM-M-27697-2022

Date of decision: - 02.12.2022

Sunny

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Rishu Mahajan, Advocate,
for the petitioner.

Mr. Tarun Aggarwal, Sr. DAG, Punjab.

VIKAS BAHL, J. (ORAL)

This is the first petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No. 111 dated 26.06.2019, under Sections 302, 148 and 149 of the Indian Penal Code, 1860, registered at Police Station Majitha, District Amritsar.

Learned counsel for the petitioner has submitted that the petitioner is in custody since 26.06.2019 (more than 3 years and 5 months) and the investigation is complete and the challan has been presented and there are 39 witnesses, out of whom, 8 have been examined, thus, the trial is likely to take time and that the petitioner is not involved in any other case. It is further submitted that even as per the FIR, which was registered on the statement of Rahul with respect to killing of Pawan and Annu, no injury has been attributed to the present petitioner

and the only role attributed to the present petitioner was that he had informed about whereabouts of the deceased Pawan and had conspired the other persons to kill the said Pawan. It is also submitted that the said Rahul, who is the complainant, has been examined as PW-1 and he had stated that the accused persons who were present in the Court were not the persons who had committed the murder and the said persons included the present petitioner. It is stated that seven other witnesses have been examined, including PW-2 Aarti and PW-4 Alka (sisters of the deceased Pawan), PW-3 Harpal Singh, PW-5 Rajpal Singh, PW-7 Swaran Singh (relative of the deceased Annu) and PW-8 Amarjit Kaur (aunt of the deceased Pawan) who have not supported the case of the prosecution and have been declared hostile.

Learned State counsel on the other hand has opposed the present petitioner for regular bail and has submitted that as per the statement of Rahul on the basis of which, the FIR has been registered, it is the case of the prosecution that his brother Pawan was having an affair with Annu and Balkar Singh as well as Harman Kaur, who were father and mother of Annu, respectively, had suspicion that Pawan had run away with the said Annu and on account of the said relationship, the accused persons had caused the death of Pawan and Annu. It is further submitted that the allegation against the present petitioner as per the FIR and the statement of Rahul was that he was the person who had provided information to Balkar Singh about the whereabouts of the brother of the complainant and was also a part of the prior planning done for killing him. The other facts however, have not been disputed by learned State

counsel.

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

The petitioner has been in custody since 26.06.2019 (more than 3 years and 5 months) and the investigation is complete and the challan has been presented and there are 39 witnesses, out of whom, 8 have been examined, thus, the trial is likely to take time and the petitioner is stated to be not involved in any other case. The FIR has been registered on the statement of Rahul and even as per his statement, no injury has been attributed to the present petitioner. The said Rahul has been examined as PW-1 and he had specifically stated that he had seen the accused persons, which included the present petitioner, for the first time in the Court on that day and they were not the persons, who had committed the murder. To similar effect are the statements of Aarti and Alka (sisters of the deceased Pawan) who have been examined as PW-2 and PW-4, respectively. Even, relative of the deceased Swaran Singh has been examined as PW-7 and he has also been declared hostile. The other witnesses, which include PW-3 Harpal Singh, PW-5 Rajpal Singh and PW-8 Amarjit have also not supported the case of the prosecution and have been declared hostile.

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 her furnishing bail / surety bonds to the satisfaction of the concerned trial Court/ Duty Magistrate and subject to her not being required in any other case.

However, it is made clear that in case, any act is done by the petitioner to threaten or influence 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 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.

December 02, 2022
naresh.k

(VIKAS BAHL)
JUDGE

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