

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

CRM-M No.34861 of 2021 (O&M)
Date of Decision.12.05.2022

Ajay Masih @ Kalu

...Petitioner

Vs

State of Punjab

...Respondent

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. K.S. Dadwal, Advocate
for the petitioner.

Mr. Pankaj Gupta, Addl. A.G., Punjab.

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JAISHREE THAKUR J. (ORAL)

This is a petition that has been filed for grant of regular bail to the petitioner in FIR No.27 dated 10.03.2019 registered under Sections 302, 148, 149 IPC and Sections 25 & 27 of the Arms Act registered at Police Station Division No.2, District Jalandhar.

Learned counsel appearing for the petitioner would contend that he has been in the custody since the date of his arrest i.e. 15.03.2019. It is submitted that the accused has not committed any offence nor has any incriminating evidence been recovered from him. It is also submitted that the petitioner herein has not been found committing murder in the CCTV footage, which has been taken into custody by the investigating agency. Moreover, it is also submitted that there is allegation in the FIR that the deceased had been fired upon by the petitioner and one Vijay Masih @ Kaku whereas the post-mortem report would reflect that only one bullet has been recovered from the body of the deceased, which would be a matter of trial as to which of the persons named in the FIR namely the petitioner or Kaku had fired the fatal shot. Even in the final report filed under Section 173 Cr.P.C., there is recovery of one country-made pistol and that too not from the petitioner herein. The

FSL report would reflect that one country-made pistol marked W/1 has been found to be in working condition and it has been used in firing, however, its last date and time of fire could not be ascertained. It has been submitted that as per story of the prosecution, the deceased along with his companion was running when the deceased was shot in his back, however, the FSL report reflects that the bullet recovered from the middle of chest was fired from the front. It is submitted that statement of the complainant has now been recorded and therefore, the question of the petitioner influencing the said witnesses would not arise. It is argued that the complainant-Gurpreet Singh @ Gopi has been examined-in-chief, however, on an application filed under Section 319 Cr.P.C., five persons have been summoned, which will result in further delay of trial.

Learned counsel appearing on behalf of the respondent-State opposes grant of regular bail to the petitioner by contending that the allegations levelled against the petitioner are serious in nature.

I have heard learned counsel for the parties and have perused the paper book. Keeping in view of the fact that the petitioner is in custody for more than three years and that statement of the complainant has been recorded as well as the fact that the five additional accused have been summoned in application under Section 319 Cr.P.C. and therefore, the trial will likely to take some time to conclude, no useful purpose would be served in keeping the petitioner behind bars. The instant petition stands allowed and the petitioner is directed to be released on regular bail on execution of adequate personal/surety bond to the satisfaction of the concerned trial court/Duty Magistrate.

However, any observation made by this Court is only for the purpose of deciding the instant petition for grant of regular bail and the same ought not to be construed as an expression on merits of the case.

May 12, 2022

Pankaj*

Whether speaking/reasoned

Whether reportable

(JAISHREE THAKUR)

JUDGE

Yes/No

Yes/No