

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**
(221-1)

CRM-M-33943-2022
Date of decision: - 22.11.2022

Jaspreet Singh alias Nihala Baba

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. P.S. Hundal, Senior Advocate
with Mr. Vikramjit Singh, Advocate
for the petitioner.

Mr. Ramdeep Partap Singh, Sr. DAG, Punjab.

VIKAS BAHL, J. (ORAL)

This is a first petition under Section 439 Cr.P.C. to grant regular bail to the petitioner in FIR No.101 dated 22.06.2019, registered under Sections 302, 148, 120-B and 34 IPC and Section 52-A(1) of the Prisons Act, at Police Station Sadar, Nabha, District Patiala.

Learned Senior counsel for the petitioner has submitted that the petitioner is not named in the FIR, although, in the FIR the names of Maninder Singh @ Jumma and Gursewak Singh @ Bhoot had been specifically mentioned and as per the prosecution, it is stated that the said two persons had assaulted Mohinder Pal @ Bittu and as a result of injuries suffered by Mohinder Pal @ Bittu, he had died in the jail. It is

also submitted that the petitioner is not stated to be present at the spot and is sought to be implicated on the allegation to the effect that the present petitioner had instigated the main accused in committing the crime. It is argued that there is no link evidence to prove the said alleged instigation and in fact, the present petitioner was confined in the maximum security cell, which is away from the cell in which the deceased and accused persons were confined. It is also submitted that the petitioner is in custody since 27.06.2019 i.e., more than 3 years and 4 months and out of total 19 prosecution witnesses, 7 have been examined, thus, the trial is likely to take time.

Learned State counsel has opposed the present petition for regular bail and has submitted that the petitioner is involved in other cases also and the recovery of a mobile phone was made from the present petitioner in order to establish the link with respect to the instigation/conspiracy, but has fairly stated that nothing substantial could be recovered from him.

Learned Senior counsel for the petitioner, in rebuttal, has submitted that no mobile phone was recovered from the present petitioner and only a melted piece of plastic was recovered from him and has further relied upon the judgment of Hon'ble Supreme Court in “**Maulana Mohd. Amir Rashadi Vs. State of U.P. and another**”, reported as 2012 (2) SCC 382 to contend that the facts and circumstances of the present case are to be seen while deciding a bail application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in other cases. The relevant portion of the said judgment is

reproduced hereinbelow:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

This Court has heard learned counsel for the parties and gone through the paper-book.

The petitioner is in custody since 27.06.2019 i.e., more than 3 years and 4 months and out of total 19 prosecution witnesses, 7 have been examined, thus, the trial is likely to take time. The petitioner is not stated to be present at the spot nor he is stated to be the person, who had injured, attacked or killed Mohinder Pal @ Bittu. The petitioner was not even named in the FIR, although co-accused Maninder Singh @ Jumma and Gursewak Singh, had been specifically named in the FIR. It is the case of the petitioner that no mobile phone has been recovered from him so as to provide any link evidence to make out a case of instigation/conspiracy against him and that the petitioner was lodged in a maximum security cell, which was away from the cell where the main accused persons and the deceased were confined. The said aspect would be finally considered and adjudicated 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 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 which are only for the purpose of adjudicating the present bail petition.

November 22, 2022
naresh.k

(VIKAS BAHL)
JUDGE

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