

(215) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-36440-2022
Date of Decision: 27.09.2022

Harjit Singh @ Jeeta

... Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Sandeep Sharma, Advocate and
Mr. Veneet Sharma, Advocate
for the petitioner.

Mr. Kirat Singh Sidhu, D.A.G, Punjab.

JASJIT SINGH BEDI, J.

The prayer in the present petition is for the grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.64 dated 25.06.2022 registered under Section 304 IPC, 1860 with Police Station Ramdas, Amritsar Rural, Amritsar.

2. The brief facts of the case are that the Investigating Agency received secret information that on 22.06.2022 in the evening Lovepreet Singh alias Rura son of Sarwan Singh had died due to drug overdose and some unknown person had given an overdose of an intoxicant to him causing his death. Based on the said information, the present FIR came to be registered.

During the course of investigation in the aforementioned FIR, the statement of witnesses Gurvinder Singh, Sarpanch and Balwinder Singh, Member Panchayat were recorded under Section 161 Cr.P.C., who stated that

they had seen the deceased Lovepreet Singh alias Rura and Harjit Singh alias Jeeta (the present petitioner) together on a motorcycle, who thereafter had gone to their respective houses. After some time, it came to light that Lovepreet Singh alias Rura had died due to an overdose of heroin and the petitioner ran away from his house. It was claimed by these witnesses that they were sure that the deceased had died due to an overdose of heroin given to him by the petitioner. Since it was a death on account of overdose of drugs, the cremation took place without a postmortem at the instance of the family members of the deceased out of fear.

The statements of Raj Kaur alias Raji mother of the deceased and Sarwan Singh father of the deceased were also recorded, wherein they suspected that the deceased had become an addict in the company of the petitioner and on the date of the occurrence, the deceased had been taken by the petitioner to some unknown place, where they consumed drugs. When the deceased came back home, he told his mother that he was feeling unwell on account of overdose of intoxicating substances provided to him by the petitioner. Due to the sudden death of their son and the consequent trauma no postmortem examination could be conducted. However, it was apparent that the petitioner was the root cause of the death of the deceased.

3. The learned counsel for the petitioner contends that there is no postmortem of the deceased and consequently no evidence that he died of a drug overdose. He contends that there is absolutely no evidence against the petitioner that he provided any intoxicant to the deceased. The statements of the witnesses recorded under Section 161 Cr.P.C. were more in the nature of hearsay evidence and therefore, inadmissible as no one had seen the

petitioner providing heroin to the deceased and the best case of the prosecution was that the petitioner was seen in the company of the deceased. He contends that the petitioner is not accused in any case of a similar nature and he has been in custody since 29.06.2022. The challan stands filed and none of the 9 prosecution witnesses have been examined so far, therefore, the further incarceration of the petitioner is not required and he be granted the concession of regular bail.

4. On the other hand, the learned State counsel has filed a reply dated 27.09.2022 by way of an affidavit of Sanjeev Kumar, PPS, Deputy Superintendent of Police, Sub Division Ajnala, Amritsar Rural. The same is taken on record. He contends that there was evidence to suggest that the petitioner was last seen in the company of the deceased. The deceased had made a statement to his mother (Raj Kaur @ Raji) that the petitioner had provided some intoxicating substance to him. And even otherwise, the petitioner had suffered a disclosure statement pursuant to his arrest admitting that he was indulging in selling heroin and that the deceased had died due to an overdose of the same. He however, does not dispute the period of custody undergone by the petitioner as also the fact that the petitioner does not have any criminal antecedents.

5. I have heard the learned counsel for both the parties at length.

6. Admittedly, in the present case, there is no postmortem report and therefore, it cannot be established that the deceased died on account of a drug overdose as is sought to be made out. The evidentiary value of the various statements of witnesses recorded under Section 161 Cr.P.C. shall be adjudicated upon during the trial. The petitioner is not involved in any other

case as per the State reply and the investigation stands completed. None of the 09 prosecution witnesses have been examined so far and the petitioner has been in custody since 29.06.2022. As the trial of the present case is not likely to be concluded in the near future, the further incarceration of the petitioner is not required.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Harjit Singh @ Jeeta son of Santokh Singh is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

27.09.2022

JITESH

Whether speaking/reasoned:- Yes/No
Whether reportable:- Yes/No