

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(202)

CRM-M-42296-2022

Date of Decision : November 10, 2022

Ajay Masih

.. Petitioner

Versus

State of Punjab

.. Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Gurmohan Singh Bedi, Advocate, for the petitioner.

Mr. Teevar Sharma, Assistant Advocate General, Punjab.

HARSIMRAN SINGH SETHI J. (ORAL)

Present petition has been filed under Section 439 Cr.P.C for the grant of regular bail to the petitioner in respect of FIR No.110 dated 29.10.2019 registered under Sections 302, 201 of the Indian Penal Code, 1860 (Sections 473, 379, 411 and 482 IPC added later on) at Police Station Kalanaur, District Gurdaspur.

Learned counsel for the petitioner argues that the FIR was registered on the basis of statement of one Kuldeep Singh who had found a dead body and thereafter, keeping in view the missing report lodged by the parents of one Vishal Sharma, an FIR was registered and ultimately, the dead body was identified to be that of Vishal Sharma. On the basis of supplementary statement of the mother of the deceased Santosh Rani, the petitioner was involved in the present case as, the allegation was made that the petitioner and his brother Haroon Masih, injected a drug upon Vishal Sharma due to which victim Vishal Sharma died.

Learned counsel for the petitioner submits that after the investigation, the challan was presented and in the MLR as well as in the chemical report, which has already come on record, no intoxicant is found in the body of the deceased Vishal Sharma, which itself belies the allegation that the victim Vishal Sharma had died due to the overdose of a drug, allegedly injected by the petitioner along with his brother. Learned counsel for the petitioner further submits that keeping in view the said fact coupled with another fact that the petitioner is behind the bars for the last more than three years and the co-accused has already been extended the bail, the petitioner be also admitted to the regular bail.

Notice of motion.

Mr. Teevar Sharma, Assistant Advocate General, Punjab, who is present in the Court, accepts notice on behalf of the respondent-State.

Learned counsel for the respondent-State, on the instructions from ASI Nirmal Singh, concedes the fact that as per the allegations, the petitioner is stated to have injected the drug upon Vishal Sharma and due to the overdose of the said drug, Vishal Sharma is stated to have died whereas, as per the report of the chemical examiner, no drug has been found in the body of Vishal Sharma.

Learned counsel for the respondent-State also concedes the fact that similar allegations were there on the other co-accused Haroon Masih, who has already been granted the concession of regular bail.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

The fact, as conceded by the learned counsel for the parties concerned is that the allegation against the petitioner is of causing death of

the victim Vishal Sharma by injecting a drug whereas, no such drug has been found by the chemical examiner upon examining of the dead body of the deceased. Another fact which has not been rebutted as of now is that as per the MLR report, the cause of death of the victim is due injury to neck muscle, and not the overdose of the drug.

Further, out of the 29 witnesses, 20 have already been examined including the material witness such as complainant as well as the mother of the deceased.

Keeping in view the above said facts coupled with the fact that co-accused Haroon Masih, who is also accused of similar allegation, has already been extended the concession of regular bail as well as that petitioner is behind bars for the last more than three years and material witnesses have already been examined and the petitioner has undertaken before this Court that in case his prayer for the grant of regular bail is accepted, he will not influence the trial or witnesses in any manner, the petitioner has made out a case for the grant of regular bail.

In view of the above and without commenting upon the merits of the case, it is directed that the petitioner be released on regular bail, subject to the satisfaction of the trial Court/Duty Magistrate concerned.

However, it is made clear that anything observed herein shall not be construed to be an expression of any opinion on the merits of the case.

November 10, 2022
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : Yes