

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-49090-2021

Date of decision : 30.03.2022

Rishab @ Uddu

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Jaswinder Singh Saini, Advocate
for the petitioner.

Mr.Sukhbeer Singh, AAG, Punjab.

VIKAS BAHL, J.(ORAL)

This is a first petition under Section 439 Cr.P.C. praying for regular bail to the petitioner in FIR no.36 dated 07.06.2018 registered under Sections 302, 379-B, 148, 149 IPC and Section 25 of the Arms Act, Police Station Naya Gaon, District SAS Nagar, Mohali.

Learned counsel for the petitioner has submitted that as per the FIR, no injury has been attributed to the present petitioner and the fire arm injury has been attributed to Aakash. It is further submitted that only allegation against the petitioner is that the petitioner took out purse of the deceased after he had died. It is also submitted that as per challan, no purse has been recovered from the present petitioner and the said allegation has been levelled solely to add offence under Section 379B IPC. It is argued that the petitioner has been in custody since 11.06.2018 and in the present case, challan has already been presented and there are 20 prosecution

prosecution has moved application under Section 319 Cr.P.C. and thus the trial is likely to take time. It is also stated that the petitioner is not involved in any other case.

Learned State counsel has opposed the present petition for regular bail and has submitted that as per the impugned order, the recovery of pistol is from the present petitioner.

Learned counsel for the petitioner, in rebuttal, has submitted that the recovery of pistol has been made from Sunil Kumar @ Shila and he has referred to order dated 18.02.2022 passed by the Additional Sessions Judge, SAS Nagar, dismissing the bail of said Sunil Kumar alias Shila where the said fact has been recorded. It is pointed out that in the impugned order dated 13.07.2021, it has been specifically stated that no specific attribution has been made to the present petitioner in para 5 and thus the averments in the last 4 lines of para 4 are factually incorrect.

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

A perusal of the FIR would show that the petitioner has not been attributed any injury. Injury with the pistol has been attributed to Aakash. The only allegation against the petitioner is that the petitioner had taken out the purse of the deceased after he had died. It has been pointed out that the said purse has not been recovered. The petitioner has been in custody since 11.06.2018 and challan in the present case has already been presented and there are 20 prosecution witnesses and out of them only, one witness has been partially examined and the prosecution has moved an application under Section 319 Cr.P.C. and thus, the trial is likely to take time and the petitioner is not stated to be involved in any other case.

Keeping in view the abovesaid 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.

(VIKAS BAHL)
JUDGE

March 30, 2022
Davinder Kumar

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