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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M No.56536 of 2022 (O&M)

Date of decision: 12.12.2022

Jagtar Singh

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Naveen Kaushik, Advocate
for the petitioner.

Mr. Shubham Kaushik, DAG, Punjab.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.164 dated 17.08.2019, for offence punishable under Sections 302/34 of the Indian Penal Code, 1860 (in short 'IPC') registered at Police Station Sangat, District Bathinda.

Counsel for the petitioner has submitted that as per the allegations in the FIR, the petitioner was nominated in the case on the basis of the disclosure statement of the co-accused Mangat @ Manga, who has already been released on bail vide order dated 28.07.2021 passed in CRM-M No.28028 of 2021. It is further argued that even another co-accused of the petitioner namely Joginder Singh has been granted the concession of regular bail vide order dated 16.02.2021 passed in CRM-M No.20236 of 2021 and similarly, the other co-accused namely Jasvir Singh @ Seera @ Sukha has also been released

on regular bail vide order dated 20.07.2021 passed in CRM-M No.8816 of 2021. The operative part of the said order dated 20.07.2021, reads as under:-

“Learned counsel for the petitioner submits that petitioner is in judicial custody for the last about 01 year and 05 months and both the daughters of deceased Sukhpal Kaur have not supported the prosecution version.

Learned counsel for the petitioner relies upon the statement of PW-2 Gurpreet Kaur as well as PW-3 Gurmail Kaur @ Golo, who have stated that their mother never told them about accused Jasvir Singh that she had a suspicion that he may commit her murder.

Learned counsel further submits that both of these witnesses have not supported the prosecution version and during cross-examination by the Public Prosecutor, these witnesses have even denied having made any statement before the police on the pretext that their signatures were taken on a blank paper. It is further stated that witness Kulwant Singh @ Rinku is only an informant to PW-2 and PW-3 about the murder of their mother on the next morning.

Learned counsel further submits that in view of the statement of aforesaid both the witnesses, which is the only evidence against the petitioner, the chances of conviction of the petitioner are very bleak.

Learned counsel for the petitioner further submits that even as per statement of PW-1 Dr. Harmeet Singh, who conducted the postmortem of deceased, it is stated that possibility of head injury by fall from the height cannot be ruled out.

Learned State counsel, on the basis of the affidavit of DSP, Bathinda (Rural), dated 07.10.2020, though supports the prosecution version, however, he could not

dispute the fact that subsequent to filing of the aforesaid affidavit, PW-2 and PW-3, in their statement recorded on 18.01.2021, they have not supported the prosecution version.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the aforesaid facts and circumstances of the case; the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaq Magistrate, concerned.”

For the sake of brevity, the facts are not reproduced again.

Counsel for the petitioner has further argued that since the petitioner was not named in the FIR and was only nominated in the case on the basis of the disclosure statement of the co-accused Manga Singh @ Manga, who has already been released on bail and the prosecution witnesses i.e. PW-2 and PW-3, have not supported the prosecution version, the petitioner be granted the concession of regular bail as he is in custody for the last 03 years, 03 months and 21 days.

Counsel for the State on the basis of the Custody Certificate has not disputed the factual position but opposed the prayer for bail.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody for the last 03 years, 03 months and 21 days; the co-accused of the petitioner are already released on bail; the petitioner is not involved in any other case; the custodial interrogation of the petitioner is not required; the prosecution witnesses i.e. PW-2 and PW-3 have not supported the

prosecution version and the conclusion of the trial will take some time, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

12.12.2022
yakub

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