

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(221)

CRM-M-53692-2022

Date of decision: - 24.11.2022

Sham Sunder @ Neela

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Tarun Sharma, Advocate
for the petitioner.

Mr. Iqbal S. Mann, DAG, Punjab.

VIKAS BAHL, J. (ORAL)

This is the second petition under Section 439 Cr.P.C. to grant regular bail to the petitioner in FIR No.206 dated 05.10.2021, registered under Sections 304 and 34 IPC, at Police Station Sahnewal, District Ludhiana.

Learned counsel for the petitioner has submitted that the present FIR was registered on the statement of Bachittar Singh, who was brother of the deceased-Karamjit Singh and as per the FIR, it is stated that Bachittar Singh and Inderjeet Singh were the eye witnesses in the present case and had seen the accused persons committing the alleged offence. It is further submitted that in the FIR, it has been mentioned that deceased Karamjit Singh used to take drugs and it was Manjit Singh, who had injected Karamjit Singh with the syringe while the present petitioner was

holding both the legs of the deceased. It is also submitted that the petitioner had earlier filed a petition for regular bail, which was dismissed as withdrawn at that stage on 03.08.2022 with liberty to file a fresh petition after the examination of Bachittar Singh and Inderjeet Singh, who are the star witnesses in the present case. It is stated that after the passing of the said order, Bachittar Singh and Inderjeet Singh have been examined as PW-1 and PW-2, respectively and both the said witnesses have turned hostile and have not supported the case of the prosecution. It is further stated that the present petitioner has been falsely implicated in the present case and it was Karamjit Singh, who was a drug addict even as per the FIR and used to take drugs of his own will. It is further stated that the petitioner has been in custody since 06.10.2021 and the investigation is complete and the challan has been presented and there are 15 prosecution witnesses, out of whom three have been examined, thus, the trial is likely to take time and the petitioner not involved in any other case.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that as per the FIR, the petitioner had also actively participated in administering the injection to the deceased, inasmuch as, he was holding both the legs of the deceased, when the injection had been administered.

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

The petitioner has been in custody since 06.10.2021 and the investigation is complete and the challan has been presented and there are

15 prosecution witnesses, out of whom three have been examined, thus, the trial is likely to take time and the petitioner is stated to be not involved in any other case. The FIR was registered on the statement of Bachittar Singh, who stated that he along with Inderjeet Singh had seen Manjit Singh injecting the deceased with the syringe along with other co-accused. The petitioner is stated to have been holding both the legs of the deceased at the said time. In the FIR itself, it has been stated by the complainant that his brother was a drug addict. Moreover, Bachittar Singh has appeared as PW-1 and he has stated that his brother had died due to heart disease and nobody had done anything against his brother and, thus, he has been declared hostile. Further, Inderjeet Singh, who has been examined as PW-2, has stated that he never accompanied the Bachittar Singh to the place of the incident, thus, he has been declared hostile. The said witnesses are the star witnesses in the present case. The petitioner had earlier filed a petition for regular bail, which was dismissed as withdrawn at that stage on 03.08.2022 with liberty to the petitioner to file a fresh petition after the examination of Bachittar Singh and Inderjeet Singh and the present petition has been filed after the examination of the said witnesses, who have not supported the case of the prosecution, thus, entitling the petitioner to file the present second petition for regular bail.

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 24, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No