

211

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-55044-2022

Date of decision:02.12.2022

Gurjit Singh alias Guri alias Sucha

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Piyush Sharma, Advocate for the petitioner.

Mr. Joginder Pal Ratra, Sr. DAG, Punjab.

VIKAS BAHL, J. (ORAL)

This is the third petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.84 dated 18.08.2021, registered under Section 379-B IPC, later on Section 379-B IPC has been deleted and Sections 395, 397, 120-B, 427, 201, 506 IPC & 25 of the Arms Act have been added, at Police Station Cantt. Ferozepur, District Ferozepur.

Learned counsel for the petitioner has submitted that the petitioner has been in custody since 26.09.2021 (more than 1 year and 2 months) and had first filed regular bail application, which was withdrawn at that stage on 17.01.2022 with liberty to file a fresh petition after the complainant had been examined. It is further submitted that the second petition for regular bail was filed by mentioning it to be the first petition as the counsel who had filed the said petition was not aware about the filing of the earlier petition and was accordingly withdrawn and liberty which was

granted vide order 17.01.2022 was reiterated. It is contended that subsequent to the passing of the above order, the complainant has been examined as PW1 and in his cross examination, he has specifically stated that the FIR was registered against unknown persons and that he was unable to recognize or identify the persons/accused present in the Court on the said date or present in VC and that it was correct that at the time of occurrence the accused persons were having muffled faces and he was never called at police station for the purpose of identification of accused. It is further contended that the said witness is the star witness who has already been examined and has refused to identify the present petitioner and the other accused. It is argued that there are total 26 prosecution witnesses, out of which, only one witness has been examined as yet and thus, the conclusion of trial is likely to take time and that the petitioner is not involved in any other case and no recovery has been effected from him.

On the other hand, learned State counsel has opposed the present petition for grant of regular bail to the petitioner and has submitted that the complainant had recognized the cheques which were recovered from the other co-accused and was apparently back tracking from his statement.

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

Keeping in view the above said facts and circumstances, more so, the facts that the petitioner has been in custody since 26.09.2021 (more than 1 year and 2 months) and the star witness in the present case i.e. Kishore Kumar has been examined and in his cross examination, he has specifically stated that the FIR was registered against unknown persons and

it was correct that he was unable to recognize or identify the persons/accused present in the Court on that date or present in VC and that at the time of occurrence, the accused persons were having muffled faces and that the police had never called him for the purpose of identification of the accused persons and also the fact that the petitioner is not involved in any other case and no recovery has been effected from him and the fact that that in the present case, out of 26 witnesses, only one witness has been examined and, thus, the conclusion of trial is likely to take time, 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.

02.12.2022

Ishwar

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No