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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-1813-2023 (O&M)

Date of decision:11.09.2023

Ravi Kumar

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Arnav Sood, Advocate,
for the petitioner.

Mr. Mohit Thakur, AAG, Punjab.

ARUN MONGA, J. (ORAL)

After being declined bail by the trial Court, petitioner before this Court seeks his release as an undertrial a casebearing FIR No.0118dated 15.07.2022, registered under Section 304 read with Section 34of IPC at Police Station, Garhshankar, District Hoshiarpur.

2. Per prosecution version, FIR was registered on the statement of complainant Narinder Singh, father of the deceased. Proceedings under Section 174 Cr.P.C. were conducted. On seeing CCTV footage installed at Bus stand Tahliwal Town, complainant came to know that his son Amandeep Singh was taken away on motorcycle by Ravi Kumar. Ravi Kumar is allegedly in habit of taking drugs. On the way, he purchased some intoxicant substance from Gurmukh Singh and administered the said intoxicant substance to his son, which caused the death of his son Amandeep Singh. Complainant alleged that petitioner was thus responsible for death of his son Amandeep Singh. After registration of formal FIR, investigation was conducted. On 15.07.2022,complainant produced a pen drive of CCTV camera recording, which was taken into police possession and petitioner Ravi Kumar was arrested on 15.07.2022.

3. Learned counsel for the petitioner submits that present case is based on circumstantial evidence and there is no eyewitness to the alleged occurrence.

Moreover, the allegations raised are nothing but a mere presumption drawn by the

complainant. Petitioner has no criminal antecedents. Petitioner has thus been falsely implicated in this case.

3.1 He further submits that petitioner is not required for further custodial interrogation. There is no likelihood of petitioner tampering with evidence and/ or influencing prosecution witnesses. Further contends that out of 12 prosecution witnesses, 06 have been examined. Trial will take some time to conclude as it is proceeding at a snail pace and next date before learned trial Court is 20.09.2023.

3.2. He further canvasses that co-accused Gurmukh Singh was granted the concession of anticipatory bail by a coordinate Bench of this Court vide order dated 17.02.2023 passed in CRM-M-52512-2022.

4. On the other hand, learned State counsel opposes the bail petition. He submits that petitioner has committed a serious offence. In case, petitioner is granted concession of bail, there are chances of his fleeing from justice. He however, admits that no other case is pending against him.

5. I have heard rival contentions of learned counsels for the parties and have gone through the case file.

6. On a Court query, under instructions from ASI Lakhvir Singh, learned State counsel informs that challan was filed way back on 14.10.2022. Charges were framed on 30.01.2023. Petitioner is not required for custodial interrogation. Out of 12 prosecution witnesses, 06 have been examined and now the case is fixed for 20.09.2023.

7. On the last date of hearing i.e., 07.07.2023, this Court had passed the following order:

“Learned counsel for the petitioner submits that the petitioner had been taken in custody on the basis of last seen together theory. The deceased was riding as a pillion on the motorcycle which was being driven by the petitioner. Subsequently, pillion rider was found dead in suspicious circumstances at a remote place.

On a Court query regarding the FSL report of the viscera of the deceased, learned State counsel seeks time to place the same on record.

Needful be done on or before the next date of hearing. In case, the report has not been received, same be expedited by taking appropriate steps by the prosecution.

Post it on 11.09.2023.”

7.1 *Apropos*, on resumed hearing today, learned State counsel has tendered a reply dated 11.09.2023 by way of affidavit of Daljit Singh PPS, Deputy Superintendent of Police, Sub Division Garhshankar, District Hoshiarpur on behalf of respondent-State of Punjab along with FSL report (Annexure R-1), which is taken on record. Para 6 of the reply reads as under:

“6. That it is submitted that FSL report in the present case has been received and the result of the same as under:

“No poison detected in exhibit I, II, III, IV and V. the true copy of the FSL report is annexed as Annexure R-1.”

7.2. The aforesaid FSL report creates a doubt on the prosecution version of administration of an intoxicant to the deceased.

8. Allegations against petitioner are a matter of trial at this stage. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Whereas, petitioner has already been languishing in jail for almost 01 year, 02 months, being behind bars since 15.07.2022. He is being kept in preventive custody merely on an unfounded suspicion that if he is let out, he may either tamper with evidence and/or influence witnesses.

9. Petitioner is stated to be 26-year old family person. He has already lost his livelihood due to prolonged incarceration and his family is living in sheer penury in his absence. Petitioner is not flight risk in any manner, given that he has a family to look after and has a fixed abode and clean antecedents.

10. Co-accused Gurmukh Singh was granted the concession of interim bail by a co-ordinate Bench of this Court.

11. Considering the overall scenario and without commenting on the merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep the petitioner in further preventive custody.

12. Accordingly, petitioner is ordered to be released on bail, if not required in any other case, on his furnishing bail bonds and surety bonds to the satisfaction of

Ld. trial Court, where his case is being tried and in case he/she is not available, before learned Duty Judge, as the case may be.

13. In case, petitioner is found to be involved or gets involved in any offence while on bail, the prosecution shall be at liberty to seek cancellation of his bail in the instant case.

14. It is made clear that any observations and/or submissions noted hereinabove shall not have any effect on merits of the case as the same are for the limited purpose of hearing the instant bail petition alone and learned trial Court shall proceed without being influenced with this order.

15. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

11.09.2023
vandana

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