

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
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CRM-M-5637-2023

Date of Decision: 11.04.2023

Bharat @ Bharat Ram

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: - Mr. Manu Loona, Advocate for the petitioner.

Mr. J.P. Ratra, Sr. DAG, Punjab with
Mr. Jaspal Singh Guru, AAG, Punjab.

ASHOK KUMAR VERMA, J. (ORAL)

Custody certificate dated 10.04.2023, filed by learned
counsel for the State is taken on record.

The petitioner has filed the present petition under Section
439 of the Code of Criminal Procedure, 1973 for grant of regular bail in
case FIR No. 120 dated 03.06.2022, registered under Section 304 IPC at
Police Station City, Kotkapura, District Faridkot.

As per prosecution story, the aforesaid FIR was registered
against the petitioner and his co-accused, on the basis of secret
information received by SI Gursewak Singh at around 9:00 PM to the
effect that the petitioner and his co-accused, namely, Swarna, Resham
Singh, Bittu, Vicky and Babbal, are making innocent persons of city
Kotkapura and adjoining villages, habitual of selling and consuming

intoxicants. On that day, one Kuldeep Khan @ Neela S/o Birbal R/o Gondara, died in a vacant plot, due to heavy dose of intoxicant and his dead body is lying in Civil Hospital, Faridkot. The aforesaid deceased also used to take intoxicant from the above-mentioned persons and on that day also the deceased had brought intoxicant from the said persons. Finding the information to be reliable, ruqa was sent to the police station on the basis of which formal FIR under Section 304 IPC was registered against the petitioner and his co-accused. During investigation, Rafiq Mohammad @ Rafiq S/o Birbal, got recorded his supplementary statement with the police on 09.07.2022. Petitioner-Bharat @ Bharat Ram, along with his co-accused, namely, Resham Singh, Balkar Singh @ Bittu and Bharat, was arrested by the police.

Learned counsel for the petitioner, *inter alia*, contends that the petitioner has falsely been implicated in the present case. The ingredients of the offence as alleged by the prosecution are not made out. There is no iota of evidence on record to spell that there was any instigation on the part of the petitioner so as to facilitate the commission of alleged offence. There is delay in lodging the FIR. The deceased was expired due to overdose of drugs. It is a debatable issue as to whether offence under Section 304 IPC is made out against the petitioner or not. Nothing has to be recovered from the petitioner. Petitioner is in custody since the date of his arrest. The trial is likely to take long time. No useful purpose will be served by further detention of the petitioner in custody. Co-accused of the petitioner, namely; Vicky Kumar, Swarna Rani and Resham Singh, have already been granted the concession of anticipatory

bail by this Court vide orders dated 05.01.2023 and 19.01.2023, (Annexures P-2 to P-4, respectively). Therefore, treating the case of the petitioner on the same parity as that of his co-accused, he may also be released on regular bail.

On the other hand, learned State counsel has opposed the present petition.

Keeping in view the facts and circumstances of the case and also the fact that co-accused of the petitioner, namely, Vicky Kumar, Swarna Rani and Resham Singh, have already been granted the concession of bail by this Court vide orders dated 05.01.2023 and 19.01.2023 (Annexures P-2 to P-4, respectively), but without commenting on merits of the case, I am of the considered view that the petitioner deserves the concession of regular bail.

Therefore, the petition is allowed and petitioner-Bharat @ Bharat Ram, is ordered to be released on regular bail on furnishing of bail bonds and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate concerned.

11.04.2023

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(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No