

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-5987-2023

Date of Decision:-28.03.2023

Nishan Singh.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Inderjit Sharma, Advocate for the Petitioner.

Ms. Ramta Chowdhary, Deputy Advocate General, Punjab.

JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.0063 dated 24.09.2022 under Sections 304 IPC registered at Police Station Tibber, District Gurdaspur.

2. The brief facts of the case are that Gurdeep Kaur wife of Darshan Singh got recorded her statement to the effect that she had two children. Her daughter Nirmal Kaur was married with Mandeep Singh and younger son Tajinderjit Singh was also married. Nishan Singh (petitioner) was a friend of her son and both used to consume intoxicants together. About 02 months ago her son Tajinderjit Singh had met with an accident and the doctor had asked him not to take any intoxicant. She (complainant) had also directed the petitioner not to provide any intoxicant to the deceased. However, the petitioner had taken her son Tajinderjit Singh from the house by stating that they would come back in the evening. When her son did not reach the house a search was carried out and the body of her son was

discovered near the Canal, Gujran Da Pul village Mustafabad. She believed that the petitioner had given an overdose of intoxicants with an injection causing the death of her son.

Pursuant to the registration of the FIR, the petitioner was arrested. During the course of investigation it transpired that the deceased had died on account of cardio pulmonary arrest due to morphine poisoning. The petitioner also disclosed that he had procured the intoxicating substance from 1) Peter Masih, 2) Jonny @ John Masih, 3) Pali @ Vishal, 4) Deepu @ Sunil, 5) Ravi, all of whom have been nominated as accused in the FIR.

3. The Counsel for the petitioner contends that there is absolutely no evidence that the petitioner had provided intoxicants to the deceased or had injected him. The entire case is based on suspicion. In fact the deceased himself was a drug addict and the question of the petitioner injecting the deceased is highly improbable. As the petitioner was in custody since 26.09.2022 and none of the 17 prosecution witnesses had been examined, the petitioner was entitled to the grant of bail as the trial was not likely to be concluded anytime soon.

4. The Counsel for the State on the other hand contends that the petitioner was duly named in the FIR. Serious allegations had been levelled against him by the mother of the deceased. The petitioner was also a convict in two cases bearing FIR No.179 dated 19.11.2008 under Section 379/411 IPC P.S. City Gurdaspur and FIR No.34 dated 17.05.2014 under Sections 382/34 IPC P.S. Tibber. Therefore, his criminal antecedents did not entitle him to the grant of bail.

5. I have heard the learned counsel for the parties.

6. The allegations against the petitioner shall be adjudicated upon during the course of the Trial. The petitioner is in custody since 26.09.2022

and none of the 17 prosecution witnesses have been examined so far. As such the Trial of the present case is not likely to be concluded anytime soon. Therefore the further incarceration of the petitioner is not required.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-**Nishan Singh** son of Sh. Balbir Singh is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the Trial and inform in writing each time that he is not involved in any other crime other than the cases mentioned in this order.

9. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.50,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

10. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

March 28, 2023
Vinay

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