

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(216)

CRM-M-8804-2023

Date of decision: - 23.02.2023

Gurmeet Singh

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Ms. Riffi Birla, Advocate,
for the petitioner.

Mr. Rohit Ahuja, DAG, Punjab.

VIKAS BAHL, J. (ORAL)

This is the third petition under Section 439 Cr.P.C. to grant regular bail to the petitioner in FIR No.237 dated 28.10.2021, registered under Section 304 IPC, at Police Station City Jalalabad, District Fazilka.

Learned counsel for the petitioner has submitted that the petitioner has been in custody since 29.10.2021 and out of total 14 prosecution witnesses, only 2 witnesses have been examined, thus, the trial is likely to take time. It is further submitted that the first bail application was withdrawn at that stage on 14.02.2022 and the second petition was dismissed as withdrawn on 12.12.2022 with liberty to file fresh petition after going through the statements of two witnesses, which have been recorded. It is stated that in effect, the present petition is thus, the second regular bail application and even after passing of the order

dated 14.02.2022, sufficient time has elapsed, thus, entitling the petitioner to file the present regular bail application. It is further stated that in the present case, there is no eye witness and no person has seen the petitioner forcibly administer any intoxicant substance (drug) to deceased Vishav Singh. It is also stated that a perusal of the FIR would show that even as per the prosecution version, deceased Vishav Singh had gone along with the present petitioner on 25.10.2021, out of his own free will. It is contended that a perusal of the evidence of the complainant, who is the father of the deceased Vishav Singh, would show that it has been admitted by him that one FIR under the NDPS Act had been registered against his deceased son. It is argued that in the facts of the present case, it is *prima facie* apparent that the deceased was using drugs and after consuming drugs, he died and the parents of the deceased were unhappy with the present petitioner on account of the fact that as per their opinion, the petitioner was a bad influence on their son. It is further argued that the primary statement against the present petitioner in the present case is of the sister of the deceased, who has stated that the deceased had informed her that the present petitioner had administered some intoxicant substance to him. It is argued that the said Santosh Rani has been examined as PW-2 and in her cross-examination she stated that till the time deceased was admitted in the hospital, he did not gain consciousness. It is submitted that the deceased had come back to his sister's house on 25.10.2021 and had died on 28.10.2021 and there is no statement of the deceased implicating the present petitioner. It is further submitted that the petitioner is 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, deceased Vishav Singh had been taken by the petitioner on 25.10.2021 and thereafter, dropped him at back side of the house of the sister of the deceased and the deceased had told his sister Santosh Rani that it was the present petitioner who made him consume intoxicant substances forcibly due to which, his condition deteriorated.

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 fact that the petitioner has been in custody since 29.10.2021 and out of total 14 prosecution witnesses, only 2 witnesses have been examined, thus, the trial is likely to take time and that the petitioner is stated to be not involved in any other case and also the fact that there is no eye witness in the present case and PW1, who is the complainant, has admitted in his cross-examination that an FIR under the NDPS Act had been registered against his deceased son and thus, the argument of learned counsel for the petitioner to the effect that the deceased used to consume intoxicants out of his free will, cannot be outrightly rejected and also the fact that in the evidence of PW2 Santosh Rani, she has specifically stated that till the deceased was admitted in the hospital, he did not gain consciousness and thus, the question as to whether the deceased had informed his sister-PW2 about the incident prior to his death, more so, when as per the case of the prosecution the deceased was left at his sister's house on 25.10.2021 and had died on 28.10.2021 and yet had not given

any complaint in writing against the present petitioner regarding forcibly giving the deceased intoxicant, is a debatable issue which would be finally considered at the time of trial, 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.

February 23, 2023
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes
Whether reportable?	Yes