

CRM-M-10541-2023

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

221

CRM-M-10541-2023

Date of decision: 19.07.2023

Chamkaur Singh alias Nikka Singh alias Akash

....Petitioner

V/s

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Jaspreet Singh Brar, Advocate for the petitioner.

Mr. Mohit Thakur, AAG Punjab.

ARUN MONGA, J. (Oral)

Petitioner seeks bail in a case bearing FIR No. 28 dated 16.03.2020 (Annexure P-1), registered under Section 302 read with Section 34 and Section 201 of the Indian Penal Code, 1860 (for short 'IPC'), at Police Station SadarKotkapura, District Faridkot.

2. Per FIR, the complainant, Mander Singh, who worked as a Chowkidar in village Panjgrian, on the fateful day around 09:15 a.m., he had gone to the fields to fetch fodder. As he approached the area where animal carcasses were usually found, located on the main road from Panjgrian Kalan to Kotkapura, he discovered the lifeless body of a young individual, approximately 25 to 26 years old. The deceased was wearing a purple-colored T-shirt and black trousers, lying on the north side of the road. Upon closer inspection, Mander Singh noticed marks on the deceased's neck indicative of strangulation and injury marks on the body, leading him to believe that the person had been murdered and subsequently left there. Soon after, another Chowkidar named Magger Singh, son of Lachman Singh and resident of Kewal

CRM-M-10541-2023

Patti, Panjgrian, arrived at the scene. An FIR was registered on his information. In the course of investigation, name of the petitioner came up based on the statement provided of Sanjay Kumar, the brother of the deceased. He was arrested as a suspect on 18.03.2020 and is in custody since then.

3. Learned counsel for petitioner submits that petitioner has been falsely implicated in the present case. From a bare perusal of FIR, no offence, as alleged, is made out against petitioner. He further submits that all the material prosecution witnesses including complainant have already been examined and none has supported the prosecution version. In-fact, even the eyewitness has turned hostile. On that premise, learned counsel argues, that from the evidence on record, it does not appear to be a case of conviction and in all likelihood, trial is likely to result in acquittal of petitioner.

4. On the other hand, learned State counsel opposes the petition and submits that petitioner has committed serious offence. He further contends that if released on bail, petitioner may tamper with the evidence and/or influence rest of witnesses. The hammer and string alleged to have been used in the commission of alleged offence were recovered from possession of petitioner and his accomplice. He further submits that the hammer was also found bloodstained, per report of FSL.

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

6. Perusal of the case file shows that out of 27 prosecution witnesses cited by the prosecution, 6 have already been examined and 5 witnesses have been declared hostile. Testimony of material independent witnesses (Annexures P-3 to P-8) is also on record. Even the brother of the deceased, namely, Sanjay, who appeared in the witness box as PW-6, has turned hostile and there seems to

CRM-M-10541-2023

every likelihood of petitioner's acquittal in the trial, as learned counsel for petitioner contends. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Since the trial has commenced, petitioner is not required for custodial interrogation and he is being kept in judicial custody, given the apprehension of tampering with the evidence and/ or influencing the witnesses. Conclusion of trial is still likely to take long time, whereas petitioner has already been languishing in jail for the past more than three years and four months in preventive custody, he being behind the bars since 18.03.2020.

6.1. Petitioner is 27-year old and sole breadwinner of his family. He has added responsibility of looking after his widowed mother and unmarried sister, who are living in penury, in his absence.

7. 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.

8. Accordingly, petitioner is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned 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.

9. 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.

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

CRM-M-10541-2023

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

(ARUN MONGA)
JUDGE

July 19, 2023
Ajay

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