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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-15319-2023

Date of decision : 10.04.2023

Murad Ali @ Muradu

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Satnam Singh Gill, Advocate for the petitioner.

Mr. Ferry Sofat, Addl. A.G. Punjab.

VIKAS BAHL, J. (ORAL)

This is a second petition filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No.23 dated 10.04.2022 under Sections 302, 452, 323, 324, 325, 379-B(2), 148 and 149 IPC, registered at Police Station Mattewal, District Amritsar Rural.

Learned counsel for the petitioner has submitted that the petitioner has been in custody since 17.04.2022 and out of total 43 prosecution witnesses, only 3 witnesses have been examined, thus, the trial is likely to take time. It is further submitted that the earlier bail application filed by the petitioner was withdrawn at that stage on 19.09.2022 and after the said withdrawal, three witnesses have been examined i.e., PW-1/Roshandeen (complainant), PW-2/Billa Khan (injured) and PW-3/Salima

(injured) and all three of them had stated that the present petitioner and the other accused were not the persons who had caused the injuries and thus, said PWs were declared hostile. It is further submitted that the petitioner was not named in the FIR, although, 15 other persons were named in the FIR. It is also submitted that the allegations with respect to the injuries caused to the deceased were only made against co-accused, namely, Juma and the other 20-22 unknown persons were not attributed any specific injuries. Even theft of Rs.60,000/- was stated to be have been committed by Surmu son of Masoom Ali. It is stated that the petitioner has been implicated in the present case by the complainant in a supplementary statement recorded on 16.04.2022 i.e., after a period of six days from registration of the present FIR and even in the said statement, no specific injury has been attributed to the present petitioner. It is further stated that the petitioner is not involved in any other case and in the present case, even the accused party got a cross-case registered and as per the said cross-case, three persons belonging to the accused party have also suffered injuries. It is also submitted that co-accused of the petitioner namely Hazoor Ali has been granted the concession of regular bail by this Court vide order dated 22.03.2023 passed in CRM-M-50767-2022 and that the case of the present petitioner is on a similar footing as that of said Hazoor Ali.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that in pursuance of the supplementary statement, recovery of gandasi has been effected from the present petitioner, which, prima facie, establishes the participation of the present petitioner in the incident in question.

This Court has heard learned counsel for the parties and has gone through the paper-book.

The petitioner has been in custody since 17.04.2022 and out of total 43 prosecution witnesses, only 3 witnesses have been examined and thus, the trial is likely to take time. The petitioner is not involved in any other case and was not named in the present FIR although, 15 persons were specifically named in the FIR and it was stated that there were 20-22 other unknown persons. As per the FIR, no specific injury has been attributed to the said unknown persons and the injury which was inflicted to the deceased is stated to have been caused by co-accused Juma and even theft of Rs.60,000/- is stated to have been committed by co-accused Surmu son of Masoom Ali. The petitioner has been named in the supplementary statement of the complainant recorded on 16.04.2022, which is after a delay of six days from the date of registration of the FIR and even as per the said statement, no specific injury has been attributed to the present petitioner. The three star witnesses i.e., PW-1/Roshandeen (complainant), PW-2/Billa Khan (injured) and PW-3/Salima (injured), have stated that the petitioner and the other accused persons who had appeared through VC on that day were not the persons who had caused injuries and that they had seen the said persons for the first time on said day and thus, were declared hostile. Co-accused of the petitioner namely, Hazoor Ali has been granted the concession of regular bail by this Court vide order dated 22.03.2023 passed in CRM-M-50767-2022 and the case of the present petitioner is on a similar footing as that of said Hazoor Ali.

Keeping in view the above-said facts and circumstances, 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.

10.04.2023*Pawan***(VIKAS BAHL)
JUDGE****Whether speaking/reasoned:- Yes/No****Whether reportable:- Yes/No**