

CRM-M-17531-2023

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2023:PHHC:079673

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-17531-2023

Date of decision : 31.05.2023

Ajij Khan

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Ms.Sharmila Sharma, Advocate
for the petitioner.

Ms. Rajni Gupta, Addl.A.G. Haryana.

VIKAS BAHL, J.(ORAL)

1. This is the third petition filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR no.261 dated 12.10.2020 registered under Sections 302, 404, 34 IPC and Section 25 of the Arms Act at Police Station Sector 6, Bahadurgarh, District Jhajjar.

2. Learned counsel for the petitioner has submitted that the petitioner has been in custody since 13.10.2020 and there are 42 witnesses, out of which, only 8 witnesses have been examined and thus, the trial is likely to take time. It is further submitted that the petitioner had filed the first regular bail petition in which the petitioner was granted interim bail for a period of 30 days on medical condition vide order dated 02.03.2022 passed in CRM-M-6106-2022 and the petitioner surrendered within a period of said 30 days and did not misuse the said concession granted. It is stated that the second bail petition filed by the petitioner was dismissed as withdrawn vide order dated 21.03.2023 with liberty to file a fresh petition

bail petition. It is further stated that the petitioner is not involved in any other case and in the present case, there is no eye witness and the petitioner is sought to be implicated only on account of the fact that as per the FIR, the petitioner along with one Nafeez and Amit were having drinks with the deceased-Vijay.

3. Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that in the present case, recovery of mobile phone of the deceased, purse, motor cycle, keys of flat, I.D. card, Pan card, driving licence and Aadhar card bearing no. DL-8SBW-8843, were recovered from the present petitioner and thus, the petitioner is prima-facie involved in the present case.

4. Learned counsel for the petitioner, in rebuttal, has submitted that there is no evidence to show that the said ATM card was used and the said recovery has been planted on the petitioner and there is no allegation of committing theft by the petitioner.

5. This Court has heard learned counsel for the parties and perused the paper book.

6. Keeping in view the above said facts and circumstances moreso, the fact that the petitioner has been in custody since 13.10.2020 and out of 42 witnesses, only 8 witnesses have been examined and thus, the trial is likely to take time and also the fact that the petitioner was granted interim bail for a period of 30 days on account of his medical condition and the petitioner did not misuse the said concession and had surrendered within the said period of 30 days and the petitioner is stated to be not involved in any other case and there is no eye witness in the present case, the present petition is allowed and the petitioner is ordered to be released on bail on his

Court/ Duty Magistrate and subject to him not being required in any other case.

7. 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.

8. 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.

(VIKAS BAHL)
JUDGE

May 31, 2023
Davinder Kumar

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