

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

(Sr. No.216)

CRM-M No. 18789 of 2023

Date of decision : 10.05.2023

Rahul Kumar

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL

Present : Mr. A. S. Brar, Advocate for the petitioner.

Mr. Arun Luthra, DAG, Punjab.

* * *

DEEPAK SIBAL, J. (Oral)

(1) The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail in FIR No.141 dated 23.07.2021 registered under Sections 302, 148, 149 IPC and Sections 25 and 27 of Arms Act at Police Station Dharamkot, District Moga.

(2) The petitioner, along with his co-accused, is being prosecuted for having murdered Guravtar Singh.

(3) Learned counsel for the petitioner contends that the petitioner has been falsely implicated in this case; the petitioner has no other criminal antecedents; the petitioner is in custody since 08.07.2022; the petitioner was not named in the FIR; in the alleged supplementary statement, the complainant simply stated that the petitioner was one of the persons present at the spot when the main accused Jaswant Singh @ Jassi fired upon and murdered Guravtar Singh; the petitioner was not attributed

any specific role; all the material prosecution witnesses stand examined; PW-1 Gurwinder Singh, who is the alleged eye witness and the deceased's brother, while appearing before the trial court as PW-1, has specifically stated that the petitioner is not involved in the crime in question and that he had not made any supplementary statement to the police; Gurmail Singh, who is the deceased's father and the only other alleged eye-witness has also appeared before the trial court as PW-2 and stated that the petitioner is not involved in the crime in question; even the alleged murder weapon *i.e.* the gun from which it is alleged that the main accused Jaswant Singh @ Jassi had fired upon the deceased has not been recovered; thus, there is no forensic evidence to support the prosecution's case; similarly placed co-accused Gulshan Singh @ Dharminder Singh who had earlier approached this Court through *CRM-M No.3062 of 2023- Gulshan Singh @ Dharminder Singh Vs. State of Punjab* has already been granted regular bail on 22.03.2023 and that in view of the foregoing reasons, further incarceration of the petitioner is not warranted.

(4) Learned State counsel opposes the grant of bail to the petitioner on the ground that the petitioner, along with his co-accused, murdered Guravtar Singh.

(5) The petitioner is in custody since 08.07.2022; the petitioner has no other criminal antecedents; the petitioner was not named in the FIR; all material prosecution witnesses stand examined; PW-1 Gurwinder Singh, who is the alleged eye-witness and the deceased's brother while appearing before the trial court as PW-1 has specifically stated that it was not the petitioner who was involved in the crime in question and that he had not

made any supplementary statement to the police in which the petitioner's involvement had allegedly surfaced for the first time; Gurmail Singh, who is the deceased's father and the only other alleged eye-witness has also appeared before the trial court as PW-2 and stated that the petitioner is not involved in the crime in question; there is no forensic evidence to support the prosecution's case as the alleged murder weapon has not been recovered and that similarly placed co-accused Gulshan Singh @ Dharminder Singh who had earlier approached this Court through CRM-M No.3062 of 2023-*Gulshan Singh @ Dharminder Singh Vs. State of Punjab* has already been granted regular bail on 22.03.2023.

(6) Keeping in view the totality of the above facts, the present case is considered to be a fit one in which the petitioner be directed to be released on regular bail. Resultantly, subject to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate, Moga, the petitioner is directed to be released on bail.

(7) It is clarified that the above observations have been made only for the limited purpose of deciding the present regular bail application and the same would not be construed to be an expression of opinion on the merits of the case.

10.05.2023

sunil yadav

**(DEEPAK SIBAL)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No