

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

CRM-M-23079-2023 (O&M)

Date of Decision: 07.07.2023

Malkiat Singh

....Petitioner(s)

Versus

State of Punjab

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Ankur Jain, Advocate, for the petitioner.

Mr. Rajiv Verma, DAG, Punjab.

Mr. J.S. Ghuman, Advocate, for the complainant.

JASGURPREET SINGH PURI, J. (Oral)

1. The present is a third petition filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in FIR No.20 dated 14.02.2022, under Sections 302, 307, 341, 427, 201, 148, 149 IPC, registered at Police Station Subhanpur, District Kapurthala.

2. Learned counsel for the petitioner has submitted that the petitioner is in custody from 1 year, 3 months and 21 days and it is a case where there is no specific role attributable to the petitioner. He submitted that even as per the allegation the occurrence has taken place twice and it was only in the second occurrence that the petitioner was a part of the unlawful assembly only whereas the one person who had died namely Manpreet Singh @ Whisky to whom the role was attributable to the co-accused namely. Balraj Singh and not the petitioner. He submitted that in the similar circumstances the other co-accused namely, Karandeep Singh @ Karan and Malkit Singh had filed

CRM-M-11576-2023 and CRM-M-56777-2022 respectively wherein they have been admitted to regular bail by a Co-ordinate Bench of this Court and so far as the present petitioner is concerned, he is also exactly at parity with the aforesaid co-accused who have been admitted on bail. He further submitted that the petitioner is having clean antecedents and he is not involved in any other case and considering the aforesaid facts and circumstances, he may be considered for the grant of regular bail.

3. On the other hand, Mr. Rajiv Verma, DAG, Punjab has submitted that it is correct that the petitioner is in custody for 1 year, 3 months and 21 days and the other similarly situated co-accused have been granted bail by a Co-ordinate Bench.

4. Mr. J.S. Ghuman, Advocate appearing on behalf of the complainant has opposed the grant of bail on the ground that although the petitioner was a part of the unlawful assembly but it was a collective efforts by which death has been caused. He submitted that there were four injuries on the deceased out of which three were fractures.

4. I have heard the learned counsel for the parties.

5. It is a case where the petitioner has already faced incarceration for 1 year, 3 months and 21 days. The petitioner is stated to be not involved in any other case. The other two co-accused namely, Karandeep Singh @ Karan and Malkit Singh who are stated to be at parity with the present petitioner and were also part of the unlawful assembly have been extended the benefit of bail by this Court. Furthermore, it is not the case of the State that in case the petitioner is released on bail, then he may influence any witness or may tamper with evidence or may flee from justice.

6. On a query being raised to the learned counsels for the parties

as to whether the present Malkiat Singh is different from the other co-accused Malkit Singh who has been granted bail to which the learned counsels have stated that there are two accused in the name of Malkit Singh and the present petitioner is Malkiat Singh son of Gurnam Singh whereas father name of other co-accused namely Malkit Singh who has been granted bail by a Co-ordinate Bench of this Court is Hardev Singh and, therefore, there are two accused in the name of Malkit Singh.

7. Consequently, the present petition is allowed. The petitioner shall be released on regular bail subject to furnishing bail bonds/surety to the satisfaction of the learned trial Court/Duty Magistrate concerned.

8. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

07.07.2023

rakesh

Whether speaking
Whether reportable

(JASGURPREET SINGH PURI)

JUDGE

: Yes/No
: Yes/No