

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

204

CRM-M-28081-2022

Date of decision: 03.03.2023

MOHIT KUMAR @ MOHIT

....Petitioner(s)

Versus

STATE OF HARYANA

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Baljeet Beniwal, Advocate
for the petitioner.

Mr. Tanuj Sharma, AAG, Haryana.

AMAN CHAUDHARY. J.

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in respect of FIR No. 120 dated 03.06.2021 under Sections 304 and 34 IPC (Section 304 IPC deleted and Sections 302 & 201 IPC added later on) registered at Police Station Guhla, District Kaithal.

Learned counsel contends that the petitioner has been in custody for the last more than 1 year and 07 months having been arrested on 04.07.2021. The petitioner and the deceased alongwith co-accused had gone to Bhakhra canal. The deceased fell into the canal by way of accident and to save him, the petitioner also jumped therein and was saved by one Lakhvir Singh whose statement to this effect was recorded during the course of investigation by the police. The medical of the petitioner was also conducted as per which, he had also received injuries. The cause of death of the deceased as per report of the chemical examiner was due to drowning, Annexure P-4. The complainant is not coming forward to get his statement recorded despite nonailable warrants having been issued on 22.02.2023. Statement of eye witness has been recorded by the trial Court as PW-

2 namely Surinder Singh @ Sinder who has not supported the version of the prosecution. There are in all 28 witnesses out of whom, only 3 have been examined despite the fact the charges were framed on 02.08.2022. He is not involved in any other case.

Learned State counsel opposes the bail on the ground that the petitioner was with other co-accused in the company of the deceased at the time when the death took place and there are injuries on the neck of the deceased. However, he is unable to controvert the other submissions made by learned counsel for the petitioner in particular with regard to custody, stage of the trial and that the petitioner being not involved in any other case.

Heard.

In view of the facts and circumstances of the case, in particular that the petitioner has been in custody since 04.07.2021, he is not involved in any other case; there are a total of 28 prosecution witnesses out of which only 3 have been examined and the alleged eye witness is stated to have not supported the prosecution version; the trial is likely to take a considerable time, his further detention behind bars would not serve any useful purpose, thus the present petition for grant of regular bail deserves to be allowed.

As a result, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate concerned and subject to him not being required in any other case. The petitioner shall abide by the following conditions:-

1. The petitioner will not tamper with the evidence during the trial.
2. The petitioner will not pressurize/ intimidate the prosecution witnesses.
3. The petitioner will appear before the trial Court on each and every

date fixed, unless is exempted by a specific order of Court.

- 4. The petitioner shall not commit an offence similar to the offence of which, he is an accused, or for commission of which he is suspected of.
- 5. The petitioner shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/ her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.
- 6. The petitioner shall not in any manner misuse his liberty.
- 7. The petitioner shall furnish his address and mobile number to the Trial Court forthwith and shall not change the same till the conclusion of the trial and in case for any reason, the petitioner seeks to change any of the aforesaid, the same shall be done only with prior intimation to the learned Trial Court, stating the reason for the same.
- 8. The petitioner shall deposit his passport, if any, with the Trial Court forthwith and in case, he does not have the passport, he shall furnish a specific affidavit in this regard.

It is made clear that in case of any infraction of any of the aforesaid conditions, the State shall be at liberty to seek cancellation of bail as granted to the petitioner by this order.

In view of the above, this Court makes it clarified that the observations made herein above are limited for the purpose of present proceedings and would not be construed as any opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

(AMAN CHAUDHARY)
JUDGE

03.03.2023

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