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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.30729 of 2022 (O&M)

Date of decision: 12.01.2023

Maninder Singh @ Mani

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Yashpal Thakur, Advocate
for the petitioner.

Mr. Ayush Sarna, AAG, Punjab.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.127 dated 09.08.2020, for offence punishable under Sections 302, 34, 120-B of the Indian Penal Code, 1860 (in short 'IPC') registered at Police Station Bassi Pathana, District Fatehgarh Sahib.

Counsel for the petitioner, at the very outset, has relied upon the order dated 12.05.2022 passed in CRM-M No.53403 of 2021, vide which the co-accused of the petitioner namely Parwinder Singh @ Gaggi, has been released on bail. The operative part of the said order, reads as under:-

“Learned counsel for the petitioner submits that as per allegations in the FIR, registered at the instance of complainant Mangaldeep Singh, it is stated that one Gurmehar Singh was working with him and on 08.08.2020, the complainant had gone to attend a function

of his cousin brother Harpreet Singh and when he was returning in his car at about 11:00 PM, he noticed that a motorcycle bearing registration number PB-10-EU-7186 was parked. The complainant also noticed that one Maninder Singh @ Mani, who is the brother-in-law of complainant's another cousin Paramjit Singh @ Raju, and one other person namely Parwinder Singh @ Gaggi were standing. He later on noticed that Sunny @ Sukha was holding the hand of Paramjit Singh @ Raju and was taking him towards the main road. Thereafter, the complainant went to his house and later on, he received a phone call that Parwinder Singh @ Raju has been murdered and his dead body is lying near the road.

Learned counsel for the petitioner further submits that the petitioner is in judicial custody for the last 01 year and 09 months and statement of some of the witnesses has already been recorded.

Learned counsel has referred to the statement of complainant/PW-1 Mangaldeep Singh, wherein he has not named the petitioner as a person, who was present at the spot, rather he has stated that he had seen Sukha, who pulled Paramjit Singh @ Raju towards the main road.

Learned counsel has then referred to the statement of PW-3 Gursewak Singh, a witness who came to the spot on receiving the information about the dead body of Paramjit Singh @ Raju, to submit that this witness in his examination-in-chief has stated that he has only suspicion on the brother-in-law of Raju (i.e. co-accused Maninder Singh), whose name he does not remember. This witness was declared hostile by the public prosecutor and even in cross-examination, he has not named the petitioner as person, who was present at the spot.

Reply, filed by way of the affidavit of the DSP, Bassi Pathana, District Fatehgarh Sahib, is on record, wherein after verifying the contents of the FIR, it is stated that the cause of death was injuries to brain and hypovolemic shock, which is sufficient to cause death in ordinary cause of nature.

Learned State counsel has submitted that after the petitioner was arrested, a wooden stick was recovered from him.”

Counsel for the petitioner has argued that the allegations against the petitioner is that he has caught hold of the deceased whereas

the aforesaid Parwinder Singh @ Gaggi, has caused the fatal blow on the head of the deceased and he has already been released on bail.

Counsel for the petitioner has again referred to the statement of PW-1 Mangaldeep Singh, who has failed to identify any of the accused person in the Court as the assailants in causing of murder of Paramjit Singh. Similar is the statement of PW-3.

Counsel for the State on the basis of the Custody Certificate has not disputed the factual position but opposed the prayer for bail.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody for the last 02 years, 05 months; the co-accused of the petitioner is already released on bail; the petitioner is not involved in any other case; the custodial interrogation of the petitioner is not required and the conclusion of the trial will take some time, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

12.01.2023

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Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No