

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

212

CRM-M-38576-2022 (O&M)
Date of decision: 25.07.2023

Gurwinder Singh @ Gola

..Petitioner

Versus

State of Punjab

..Respondent

CRM-M-15198-2023 (O&M)

Amrit Singh

..Petitioner

Versus

State of Punjab

..Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Arshvir Singh Sandhu, Advocate
for the petitioner in CRM-M-38576-2022.

Mr. SPS Khaira, Advocate
for the petitioner in CRM-M-15198-2023.

Mr. Manipal Singh Atwal, DAG, Punjab.

Mr. Anil K. Lamdharia, Advocate
for the complainant.

AMAN CHAUDHARY, J.

1. The aforesaid petitions shall be decided together as they arise
out of the same FIR.
2. The present petitions have been filed under Section 439
Cr.P.C. for grant of regular bail to the petitioners in case FIR No.98 dated
18.10.2021, registered under Sections 302, 201 and 34 IPC, at Police

Station Badali Ala Singh, District Fatehgarh Sahib.

2. Learned counsel contends that the petitioners are in custody for the last 1 year and 9 months. They have been falsely implicated in the present case as the complainant had already filed another FIR against the petitioners under Section 307 IPC, and thus, wanted to also frame them in the present case. There is no evidence against the petitioners except their own disclosure statements made in the police custody during the interrogation in the other FIR. The alleged recovery of rope has been effected after 4 months of the alleged incident from a thoroughfare, being a river bank. Challan stands presented on 11.03.2022 and charges were framed on 27.05.2023, however, only one witness i.e. complainant, out of total 22 witnesses, has been examined on 24.07.2023. Besides the FIR registered under Section 307 IPC, in which they are on bail, there is no other case against the petitioners.

3. The custody certificates dated 25.07.2023, filed by learned State counsel are taken on record. As per the same, the petitioners are behind bars for 1 year and 9 months.

4. Learned State counsel assisted by learned counsel for the complainant oppose the bail on the ground that the petitioners in connivance with the co-accused had committed the murder of Bhupinder Kaur and recovery has been effected in pursuance to their disclosure statements. He is however unable to controvert the submissions made regarding the custody, stage of the trial, complainant being examined and petitioners are involved in one more case registered under Section 307 IPC, also by the same complainant, in which they are on bail.

5. Heard.

6. Considering the facts and circumstances of the case, in particular that the petitioners are in custody for the last 1 year and 9 months; not involved in any other case except FIR registered under Section 307 IPC by the same complainant, wherein they are on bail; though charges were framed on 27.05.2022, complainant stands examined, however, there are 21 witnesses still remain to be examined; the trial is likely to take a considerable time, thus their further incarceration would not serve any useful purpose, the present petition for grant of regular bail deserves to be allowed.

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

- (i) The petitioners will not tamper with the evidence during the trial.
- (ii) The petitioners will not pressurize/ intimidate the prosecution witnesses.
- (iii) The petitioners will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.
- (iv) The petitioners shall not commit an offence similar to the offence of which, they are an accused, or for commission of which they are suspected of.
- (v) The petitioners 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.
- (vi) The petitioners shall not in any manner misuse their liberty.

- (vii) The petitioners shall furnish their 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 petitioners seek 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.
- (viii) The petitioners shall not leave the country without prior permission of the trial Court.
- (ix) The trial Court/Duty Magistrate may impose any other condition, as deemed appropriate while releasing the petitioners.

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

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

10. Photocopy of this order be placed on the connected file.

25.07.2023
ashok

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No