

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

209

CRM-M-36899-2023 (O&M)

Date of decision: 04.08.2023

GOPY

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. H.S. Sidhu, Advocate for the petitioner.

Mr. Gurdarshan Singh Sidhu, AAG Punjab.

HARNARESH SINGH GILL, J. (ORAL)

1. The petitioner has filed this petition under Section 439 of Cr.P.C. for grant of regular bail in case FIR No. 86 dated 02.07.2022 registered under Sections 302, 323, 148, 149 IPC and Section 449 IPC added later on, at Police Station Sadar Malout, District Sri Muktsar Sahib.
2. Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the present case; that no injury has been attributed to the petitioner; that a sudden fight took place between two groups, due to which Nitish Kumar-brother of the complainant had died; that the petitioner has been in custody since 03.07.2022 and all material prosecution witnesses, especially, Mukesh Kumar-brother of the deceased, while stepping into the witness box as PW-1, Chander Shekhar as PW-2 and Sushil Kumar as PW-3, have been declared hostile; that there is no other pending or decided case against the petitioner and that out of 26 prosecution witnesses, only 05 have been examined so far.

3. Learned State counsel, while vehemently opposing the prayer for bail, submits that the petitioner while actively participating in the occurrence, had given stick blow on the stomach of injured-Sushil Kumar, which ultimately caused fight between two groups and death of Nitish Kumar; that the material witnesses are yet to be examined and that the stick used by the petitioner in the occurrence had been recovered from him. However, he does not dispute the custody period of the petitioner and that there is no other pending or decided case against the petitioner.

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

5. The petitioner has been in custody since 03.07.2022. The recovery of stick has already been effected from the petitioner. Three prosecution witnesses, including the brother of the deceased, have been declared hostile. Remaining 21 prosecution witnesses are yet to be examined. Therefore, the conclusion of the trial would take a long time. Moreover, there is no other pending or decided case against the petitioner. Hence, no useful purpose would be served by keeping the petitioner behind the bars.

6. In view of the above, without commenting anything on the merits, lest it should prejudice the case of either side, the petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the learned trial Court/Duty Magistrate.

(HARNARESH SINGH GILL)

JUDGE

04.08.2023

Mangal Singh

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No