

CRM-M-40459-2023
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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-40459-2023 (O & M)
Date of decision: 25.09.2023

Sukhjot Singh alias Sukha

.... Petitioner

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Jasraj Singh, Advocate, for the petitioner.

Mr. Harkanwar Jeet Singh, AAG, Punjab.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail to the petitioner in case FIR No.117 dated 25.04.2023 registered under Sections 304 IPC registered at Police Station Tanda, District Hoshiarpur.

2. The brief facts of the case are that initially, the statement of Vishva Mittar son of Nagar Ram was recorded to the effect that his nephew had gone missing on 21.04.2023 and his body had been found on 22.04.2023 but he (complainant) had no suspicion on anyone. Subsequently, the first supplementary statement of the complainant was recorded on 25.04.2023, as per which, he suspected that his nephew had fallen into bad company and might have been murdered by some persons who had threatened him

(deceased-nephew Joban Sharma) about 06 months prior to the occurrence.

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On the basis of this statement, the instant FIR came to be registered against unknown persons. Thereafter, during investigation the second supplementary statement of the complainant was recorded on 27.04.2023, as per which he stated that the petitioner had been seen with the deceased- Joban Sharma. One Avtar Singh @ Tari was also named in the said statement. On the basis of this statement, the petitioner was nominated as an accused in the present case.

Pursuant to the arrest of the petitioner on 04.05.2023, his disclosure statement was recorded to the effect that the deceased had died on account of the injection of drugs which has been supplied by him (petitioner), which he had purchased from Rani (since granted interim anticipatory bail vide order dated 02.06.2023-Annexure P-2).

3. The learned counsel for the petitioner contends that, initially, the complainant had expressed no suspicion on anyone on 22.04.2024. Thereafter, in the first supplementary statement dated 25.04.2023, once again, the petitioner was not named. It was only in the second supplementary statement that the name of the petitioner alongwith his co-accused came to be mentioned on 27.04.2023. Even as per the said statement, no offence was made out. In fact, an attempt had been made to implicate the petitioner only on the basis of his own confessional statement, which was inadmissible in evidence. As the petitioner was in custody since 04.05.2023, the report under Section 173(2) Cr.P.C. stood submitted and none of the 17 prosecution witnesses had been examined so far, he was entitled to the concession of bail, moreso as till date, the cause of death had not been conclusively established.

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4. The learned counsel for the State, on the other hand, while referring to the reply dated 24.09.2023, contends that the petitioner is the person who had supplied the drugs to the deceased because of which the deceased had died. Therefore, the petitioner was not entitled to the concession of bail. He, however, concedes that the petitioner only came to be nominated as an accused on suspicion in the second supplementary statement of the complainant. Thereafter, on his arrest, the petitioner had suffered a confessional statement admitting his guilt. He also concedes that the petitioner was a first time offender, in custody since 04.05.2023 and none of the 17 prosecution witnesses had been examined so far.

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

6. The veracity of the prosecution case against the petitioner shall be adjudicated upon during the course of the trial. Admittedly, the petitioner is a first-time offender, in custody since 04.05.2023 and none of the 17 prosecution witnesses have been examined so far. Therefore, his further incarceration is not required.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Sukhjit Singh @ Sukha is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other crime other than the present case.

9. In addition, the petitioner (or anyone on his behalf) shall

prepare an FDR in the sum of Rs.50,000/- and deposit the same with the

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Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

10. The petition stands disposed of.

September 25, 2023
sukhpreet

(JASJIT SINGH BEDI)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No