

Gurpreet Singh @ Gogi

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. S.S. Swaich, Advocate,
for the petitioner.

Mr. Mohit Chaudhary, AAG, Punjab.

ARUN MONGA, J. (ORAL)

Status report dated 29.09.2023 along with custody certificate has been tendered in course of hearing, which is taken on record.

2. This is second foray of the petitioner before this Court seeks his release as an undertrial a casebearing FIR No.157dated 16.11.2021, registered under Section 304IPCat Police Station, Bassi Pathana, District Fatehgarh Sahib as earlier one was dismissed by a coordinate Bench of this Court vide order dated 10.10.2022 (Annexure P-5) passed in CRM-M-37415-2022.

3. According to the prosecution's case, on November 15, 2021, Randhir Singh, the son of the complainant-Gurdip Singh, went missing. An FIR was subsequently registeredbased on Gurdeep Singh's statement. He mentioned that on November 15, 2021, he received a call on his mobile phone informing him that his son had left on a Bullet motorcycle but had not returned. Concerned for his whereabouts, Gurdeep Singh, along with his other son and wife, conducted a search. They were informed by an unknown person that their motorcycle was parked near Chandigarhia Motor on Ghel Road. They then heard his son's cell phone ringing from the nearby sugarcane field, where they discovered his lifeless body. It appeared that his son had succumbed to an overdose of some intoxicant. CCTV footage showed deceased Randhir Singh riding a motorcycle with the petitioner and an unidentified individual. The petitioner was the last

person seen with the deceased before he left the village. In course of investigation, petitioner was arrested and has been in custody since February 28, 2022.

4. Learned counsel for the petitioner submits that as per concededly the deceased was a drug addict and died of his own accord due to overdose. His dead body was found lying near the sugarcane fields. Petitioner has been falsely implicated in the present case on the basis of last seen together theory, a mere circumstantial evidence. Petitioner was arrested after a period of more than three months of the alleged occurrence.

4.1. He further submits that petitioner is not required for further custodial interrogation. There is no likelihood of petitioner tampering with evidence and/ or influencing prosecution witnesses.

5. On the other hand, learned State counsel opposes the bail petition. He submits that petitioner has committed a serious offence. He further submits that no doubt, deceased was a drug addict, yet the fact remains that the deceased was last seen alive with the petitioner. As per the report of chemical examiner, the poison was detected in the body of the deceased. In case, petitioner is granted concession of bail, there are chances of his fleeing. He submits that one other case under Sections 324, 323, 506 read with Section 34 IPC is pending against him, however he is on bail in that case, as per custody certificate.

6. I have heard rival contentions of learned counsels for the parties and have gone through the case file.

7. On a Court query, under instructions from ASI Satnam Singh, learned State counsel informs that challan was filed on 22.04.2022. Charges were framed on 09.08.2022. Petitioner is not required for custodial interrogation.

8. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Allegations against petitioner are a matter of trial at this stage. There are 22 prosecution witnesses, but none has been examined so far. Despite dismissal of earlier bail petition in October, 2022 trial has barely proceeded further ever since. Conclusion of trial will take quite sometime, given the snail pace it is going on. Whereas, petitioner has

already been languishing in jail for more than 01 year and 05 months, being behind bars since 27.02.2022. He is being kept in preventive custody merely on unfounded suspicion that if he is let out, he may either tamper with evidence and/or influence witnesses. Evidence viz. viscera/FSL reports etc. has already been seized by the investigative agency and petitioner has no access to it.

9. Petitioner is stated to be 29-year old family person. He has already lost his livelihood due to prolonged incarceration. Petitioner is not flight risk in any manner, given that he has a family to look after and has a fixed abode.

10. Considering the overall scenario and without commenting on the merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep the petitioner in further preventive custody.

11. Accordingly, petitioner is ordered to be released on bail, if not required in any other case, on his furnishing bail bonds and surety bonds to the satisfaction of Ld. trial Court, where his case is being tried and in case he/she is not available, before learned Duty Judge, as the case may be.

12. In case, petitioner is found to be involved or gets involved in any offence while on bail, the prosecution shall be at liberty to seek cancellation of his bail in the instant case.

13. It is made clear that any observations and/or submissions noted hereinabove shall not have any effect on merits of the case as the same are for the limited purpose of hearing the instant bail petition alone and learned trial Court shall proceed without being influenced with this order.

14. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

29.09.2023
vandana

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