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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-60802-2022

Date of decision : 09.01.2023

Ranjit Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

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

Mr. Ferry Sofat, Addl. A.G. Punjab.

VIKAS BAHL, J. (ORAL)

This is the third petition filed under Section 439 of Cr.P.C. for grant of regular bail to the petitioner in FIR No.21 dated 26.03.2019 registered under Sections 302, 120-B read with Section 34 IPC, at Police Station Nayagaon, District SAS Nagar (Mohali), Punjab.

Learned counsel for the petitioner has submitted that the petitioner is in custody since 27.03.2019 (more than 3 years and 9 months) and the investigation is complete and the challan has been presented and there are 25 prosecution witnesses, out of which, 6 have been examined and thus, the conclusion of trial is likely to take time. It is further submitted that in the present case, the FIR had been registered on the statement of Usha Rani, who is the aunt of the deceased Rakesh Kumar, on the basis of

suspicion and the said Usha Rani is not an eye witness. It is also submitted that there is no eye witness in the present case and the entire case is based on circumstantial evidence. It is argued that as per the case of the prosecution, the deceased as well as the petitioner and other co-accused persons had gone to the house of Kiran and even Kiran has been examined as PW-3 and she had stated in her statement that, on 25.03.2019, birthday of Mohit (co-accused) was to be celebrated and after the cake ceremony had taken place, she went out to consume drugs at that time and when she came back, she found that the said Rakesh Kumar @ Raman had died. It is thus, submitted that she is not even an eye witness in the present case. It is stated that keeping in view the period of custody of the present petitioner and the stage of the trial, the petitioner deserves the concession of regular bail. It is contended that co-accused of the petitioner namely, Gaurav @ Gotta had filed a petition bearing No.CRM-M-19275-2022 and this Court was pleased to grant the concession of regular bail to the said Gaurav @ Gotta vide order dated 30.11.2022 and the case of the present petitioner is on a similar footing as that of the said Gaurav @ Gotta. It is further contended that the petitioner had earlier filed first bail application which was dismissed as withdrawn on 12.11.2020 at that stage and thereafter, the second bail application was dismissed as withdrawn on 20.12.2022 with liberty to file a fresh petition after giving full and better particulars and thus, in effect, the present petition is second regular bail. It is also argued that even after 12.11.2020, substantial time has elapsed and the trial has not made much progress and the same thus, entitles the petitioner to file the present regular bail application.

On the other hand, learned State Counsel has opposed the present petition for grant of regular bail to the petitioner and has submitted that the petitioner, along with co-accused Mohit and Gaurav @ Gotta, has been named as an accused in the FIR itself by Usha Rani, who had stated that she had a strong suspicion that the said three persons had committed the murder of Rakesh Kumar. It is further submitted that the petitioner and other co-accused persons were the last people present/seen with the deceased in the house of Kiran and thus, in the present case, the entire chain of circumstances stands *prima facie* completed.

This Court has heard the learned counsel for the parties and has perused the paper book.

In the present case, the petitioner has been in custody since 27.03.2019 (more than 3 years and 9 months) and the investigation is complete and the challan has been presented and there are 25 prosecution witnesses, out of which, 6 have been examined and thus, the conclusion of trial is likely to take time. There is no eye witness in the present case and the case is based on circumstantial evidence. The FIR has been registered on the statement of Usha Rani, who had named the present petitioner and other co-accused persons on the basis of suspicion. Moreover, Kiran, in whose house the birthday party of Mohit was being celebrated and where the petitioner, the other co-accused and the deceased had gone on the date of occurrence, even as per the case of the prosecution, had not seen the occurrence as she herself stated in her statement that she had gone out to consume drugs and when she came back, she saw the dead body of the deceased.

Keeping in view the abovesaid facts and circumstances, more

so, the period of custody of the present petitioner and the stage of the case, the present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate, subject to him not being required in any other case.

However, it is made clear that in case, any act is done by the petitioner to threaten the complainant or any of the witnesses, then it would be open to the State to move an application for cancellation of bail granted to the petitioner.

Nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

Pending application, if any, stands disposed of in view of the aforesaid order.

09.01.2023

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No