

CRM-M-3225-2024

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(237)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-3225-2024

Date of Decision: 29.01.2024

NITISH KUMAR @ NITESH KUMAR

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Baljeet Beniwal, Advocate
for the petitioner.

Mr. Kanwar Sanjiv Kumar, Asstt. A.G., Haryana.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.376 dated 14.08.2022 registered under Sections 148, 149, 302 IPC, 1860 at Police Station Kheripul, Faridabad, District Faridabad.

2. The present FIR came to be registered at the instance of the complainant-Gulshan son of Suresh Kumar who stated that his relative Naresh had been murdered by Puran, Nitish (petitioner), Subhash and one more boy subsequently known to be Sunil (granted bail vide order dated 23.11.2023 passed in CRM-M-29642-2023). Bikram Kumar and Akash @ Gudra (both granted bail vide order dated 19.01.2024 passed in CRM-M-1543-2024) came to be nominated as accused on the disclosure statement of the co-accused.

3. The learned counsel for the petitioner contends that the complainant/PW1-Gulshan and PW2- Suresh, the material witnesses have been examined and have not supported the prosecution case. As the petitioner was in custody since 15.08.2022 and only 05 of the 21 prosecution witnesses had been examined so far including the two material witnesses, the Trial of the present case was not likely to be concluded anytime soon and therefore, the petitioner was entitled to the concession of bail moreso when 03 co-accused had been granted the similar concession.

4. On the other hand, the learned State counsel contends that the petitioner and his co-accused had committed a heinous crime and therefore, he was not entitled to the concession of bail. He, however, concedes that both the material witnesses have been examined and have turned hostile, the petitioner was in custody since 15.08.2022, 16 prosecution witnesses still remain to be examined as also the fact that 03 co-accused had been granted bail.

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

6. Admittedly, both the material witnesses have been examined and have not supported the prosecution case. Whether the remaining evidence on record is sufficient to affix the guilt of the petitioner and his co-accused shall be adjudicated upon during the course of Trial. The petitioner is in custody since 15.08.2022 and as many as 16 prosecution witnesses still remain to be examined. Therefore, the Trial of the present case is not likely to be concluded any time soon. In this situation, the further incarceration of the petitioner is not required.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Nitish Kumar @ Nitesh Kumar son of Mukesh Kumar is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

29.01.2024

JITESH

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No