

MOHAMMAD ISHTIYAK @ MD. ISTIYAK

.....Petitioner

Versus

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Yaseen Sethi, Advocate for the petitioner.
Mr. Kewal Singh, Addl. A.G. Punjab.

HARKESH MANUJA, J. (ORAL)

1. By way of present petition filed under Section 439 CrPC, prayer has been made for grant of regular bail in case FIR No.145 dated 15.11.2022 registered under sections 302, 201 and 34 of IPC at P.S. GRP, Jalandhar, District Jalandhar wherein, the petitioner has been implicated against the alleged murder of one Mohammed Sameem.
2. The prayer made herein has been vehemently opposed at the instance of learned State counsel while referring to the serious nature of offence. Status report by way of affidavit of Tejpal Singh, PPS, Deputy Superintendent of Police, GRP Jalandhar, dated 12.03.2024 has been filed on behalf of respondent-State and the same is taken on record. Relevant portion thereof is reproduced hereunder:-

1. That the trial of the above said FIR bearing no. 145 dated 15.11.2022 U/s 302, 201 IPC, PS GRP Jalandhar vide session case no. SC/280 of 2023 titled as "State vs Mohammad Istiyak" is pending before the Court of Sh. Dharminderpal Singh Singla, Add. Session Judge, Jalandhar and charges have been framed on 25.05.2023 and till today no PW was examined in the trial and now the case is fixed for 22.03.2024 for Prosecution Evidence and vide order dated 01.02.2024 Ld. Trial Court summoned the witnesses mentioned in the list of witnesses from 1 to 7 to be examined on 22.03.2024.
2. That report of the Viscera has been received from the Assistant Chemical Examiner to Punjab Government, Kharar and the cause of

action of death in the said case is declared by the Board of Doctors as Mohammad Sameem died due to Asphyxia and report is attached.

3. I have heard learned counsel for the parties and gone through the paper book. I find substance in the submissions made on behalf of the petitioner.
4. In the present case, implication of the petitioner is merely on the basis of statement made by Mohammad Sameem who happens to be the brother of deceased. In his statement, he submits that the petitioner was having motive against deceased as he was interfering with the matrimonial life of sister of the accused-petitioner which got disturbed because of the deceased. Besides it, no other material has been pointed out in the Status report filed at the instance of Investigating Agency connecting the petitioner with the alleged offence in the entire status report. Moreover, the investigation stands concluded with the filing of challan followed by framing of charges on 25.05.2023 and the petitioner is in custody for the last more than 1 year and 3 months by now. So far, no prosecution witness has been examined out of total 18, thus, the trial is likely to take some time. Considering the aforesaid, this Court does not find justification to extend his incarceration any further.
5. In view of the above, without commenting anything on the merits, lest it may prejudice the case of either side, the present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing adequate bail/surety bonds to the satisfaction of the concerned learned trial Court/Duty Magistrate.

12.03.2024
Tejwinder

(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No

