

212 (1st case)

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

**CRM-M No.11010 of 2022 (O&M)
Date of Decision: 16.04.2024**

Avtar Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- Mr. P.S.Ahluwalia & Ms. Bhavi, Advocates for the petitioner.

Ms. Manjot Kaur, AAG, Punjab for the respondent.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of bail pending trial to the petitioner in FIR No.108 dated 25.09.2019, under Sections 302, 307, 342, 323 read with Section 34 of the Indian Penal Code, 1860; Section 27 of the Arms Act, 1959, registered at Police Station Bhadson, District Patiala.

(2) Above FIR was registered on the basis of statement made by complainant-Sukhpreet Singh with the allegations are that petitioner and co-accused Harbans Kaur had provoked co-accused Kuldeep Singh to kill the complainant party. Upon this, initially, Kuldeep Singh fired in the air with rifle and thereafter, fired on elder uncle (*Taaya*), namely, Harjit Singh of the complainant, who died on the spot.

(3) This Court, on 27.07.2023, granted interim bail to the petitioner in following manner:-

“Contends that complainant (PW-1) as well as 02 eyewitnesses (PW-2 & PW-3) have resiled and not supporting the prosecution case. Also submits that petitioner is in custody since 27.11.2019 and only lalkara is attributed to him.

On the other hand, learned counsel for the complainant is opposing the prayer on the premise that Tejinder Singh (brother of deceased) is supporting the prosecution case.

Learned State counsel seeks time to verify the above factual position.

Posted on 29.08.2023.

In the meanwhile, petitioner be released on interim bail in the present case till the next date of hearing on his furnishing adequate bail and surety bonds subject to the satisfaction of learned trial Court/CJM/Duty Magistrate concerned.”

(4) Learned Counsel for the petitioner contends that in compliance of aforesaid order, petitioner is regularly appearing before the Court below and there is no apprehension or allegation that he is likely to misuse the concession of bail in any manner.

(5) Learned State Counsel, on instructions from ASI Shaphy Mohammad, has acknowledged the above factual position.

(6) Heard learned Counsel for the parties and perused the paper-book.

(7) It is not in dispute that petitioner was granted interim bail and he is regularly appearing before learned trial Court. There is no allegation that in case he is granted bail pending trial, he will misuse the concession in any manner; thus, in such a scenario, sending him in custody at this stage would not serve any purpose.

- (8) Consequently, the present petition is allowed. Interim bail granted to the petitioner, vide order dated 27.07.2023, is made absolute. He shall be admitted to bail on his furnishing bail/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.
- (9) Petitioner shall fully co-operate with the learned trial Court without seeking any unnecessary adjournments.
- (10) The above observations may not be construed as an expression of opinion on the merits of the case.
- (11) It is clarified that in case there is any misuse of concession of bail on the part of petitioner, State would be at liberty to move an appropriate application for recalling of this order.
- (12) Disposed off accordingly.
- (13) Pending application(s), if any, shall also stand disposed off.

16th April, 2024
Gagan

(MAHABIR SINGH SINDHU)
JUDGE

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