



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-14341-2024 (O&M)
Date of decision : 20.09.2024

Abhishek Kumar ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Rajesh Kumar Girdhar, Advocate for the petitioner.

Mr. Ajaib Singh, Addl.A.G., Punjab assisted by
SI-Satwant Singh.

MAHABIR SINGH SINDHU, J.

Present second 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. 86 dated 02.07.2022, under Sections 323, 302, 449, 148 read with Section 149 of Indian Penal Code, 1860 (for short 'IPC') registered at P.S. Sadar Malout, District Sri Muktsar Sahib.

2. Allegations are that petitioner along with co-accused armed with *danda* committed murder of Nitish Kumar, brother of *de facto* complainant- Mukesh and also caused injuries to the complainant.

3. Contends that petitioner was granted concession of interim bail by this Court on 01.04.2024 and he is regularly appearing before learned trial Court. Further, contends that all material prosecution witnesses have turned hostile and there is no allegation or apprehension that he is likely to misuse the concession or hamper the trial, in case interim order is made absolute.

4. Learned State counsel, on instructions, acknowledges the above factual position.



5. Heard both sides and perused the paper-book.
6. It is not in dispute that petitioner was granted interim bail by this Court on 01.04.2024 and the order reads as under:-

“ Contends that petitioner was not named in the FIR; rather nominated on the basis of supplementary statement of the complainant and he is in custody since 03.07.2022. Also contends that all the prosecution witnesses have turned hostile and there is no material regarding complicity of the petitioner.

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

Posted for 13.05.2024.

To be heard along with CRM-M-13742-2024.

Till the next date of hearing, petitioner is ordered to be released on interim bail in this case on furnishing adequate bail and surety bonds to the satisfaction of learned trial Court/Duty Magistrate concerned.”

7. In pursuance of the above order, petitioner is regularly appearing before learned trial Court and there is no allegation that he has misused the interim concession and/or likely to hamper the trial in any manner. Moreover, all the material prosecution witnesses have turned hostile; therefore, sending him to judicial custody at this stage, would not serve any purpose.
8. Consequently, present petition is allowed. Interim bail granted to the petitioner, vide order dated 01.04.2024, is made absolute. He shall be admitted to bail on furnishing fresh bail/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.
9. Petitioner shall appear on each and every date of hearing without seeking unnecessary adjournment(s).
10. It is clarified that above observations be not construed as an expression of opinion on merits of the case.



11. In case, there is any misuse of concession by petitioner, the State of Punjab would be at liberty to move an appropriate application for recalling of this order.

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

20.09.2024
Harish Kumar

(MAHABIR SINGH SINDHU)
JUDGE

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