

209

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-15066-2024
Date of Decision: 04.04.2024

Arshdeep Singh Malhi

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Ms. Rajvinder Kaur Sohal, Advocate,
for the petitioner.

Mr. A.S. Pannu, AAG, Punjab.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case bearing FIR No.58 dated 28.07.2022, under Sections 302 IPC (Section 120-B IPC added later on), registered at Police Station Chamkaur Sahib, District Rupnagar.
2. It has been submitted by learned counsel for the petitioner that the petitioner is in custody from 30.07.2022 which is more than 1 year and 8 months and now 8 witnesses have already been examined. She further submitted that it is a case where the entire allegations as per the FIR also, are based upon circumstantial evidence and there is no eye-witness in the present case and the allegations were that the deceased was found killed at a particular place and thereafter, when the son of the deceased was arrested, he disclosed the name of the present petitioner, to whom he had given some amount of money to have his own father killed. She also submitted that it is

not a case that the petitioner is a habitual offender or is a known criminal whereas on the other hand, he has clean antecedents and is not involved in any other case and now he has already faced incarceration for more than 1 year and 8 months. She also submitted that some of the other co-accused, namely, Harshdeep Singh and Baljit Singh @ Dhadhi have already been granted regular bail by this Court in CRM-M-45079-2023 and in CRM-M-27609-2023, respectively and one more co-accused, namely, Satwinder Singh has also been granted regular bail by a Co-ordinate Bench of this Court in CRM-M-52145-2023. She submitted that in view of the aforesaid facts and circumstances of the case and considering the custody of the petitioner and also the fact that the entire case is based upon circumstantial evidence, the petitioner may be considered for the grant of regular bail.

3. On the other hand, Mr. A.S. Pannu, learned A.A.G., Punjab stated on instructions from ASI Ranjeet Singh that although the aforesaid three co-accused have been granted regular bail by this Court but so far as the present petitioner is concerned, he is the main accused and during investigation it was found that he was paid Rs.3 lacs by the son of the deceased for the purpose of killing his own father. He further submitted that so far as the antecedents of the petitioner are concerned, he has not disputed the same but considering the role of the petitioner, he does not deserve the concession of regular bail. He also submitted that there is a direct role attributable to the petitioner and therefore, the petitioner cannot be termed to be at parity with the aforesaid three co-accused.

4. I have heard the learned counsels for the parties.

5. The petitioner is in custody for more than 1 year and 8 months

and as per the learned counsel for the parties, he has clean antecedents and is not involved in any other case and three other co-accused as aforesaid have also been granted regular bail by this Court in different petitions. So far as the parity of the petitioner with the aforesaid co-accused is concerned, as per the learned State Counsel, the role of the petitioner is different because he is the main accused and he on the asking of the son of the deceased, had killed the deceased after taking Rs.3 lacs. However, as per the prosecution story and the FIR, the entire case is based upon circumstantial evidence and it was only on the basis of the statement made by the other co-accused that the name of the petitioner was nominated. This Court is of the view that even if the present petitioner is not exactly at parity with the aforesaid three co-accused, but considering his custody and his antecedents and the fact that the entire case is based upon circumstantial evidence and also considering the fact that now 8 witnesses have already been examined, the petitioner deserves the concession of regular bail.

6. In view of the above, the present petition is allowed and the petitioner is ordered to be released on regular bail on furnishing bail bond/surety bond to the satisfaction of the trial Court/Duty Magistrate concerned, if not required in any other case.
7. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of present petition.

04.04.2023
Bhumika

(JASGURPREET SINGH PURI)
JUDGE

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| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |