

CRM-M-23054-2023

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-23054-2023

Date of decision: 09.05.2024

Kuldeep Singh @ Goru

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Prashant Vir Gupta, Advocate for the petitioner.

Mr. J.S. Dhaliwal, AAG, Punjab.

Mr. Sumit Kalyan, Advocate for
Mr. G.S. Madaan, Advocate for the complainant.

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by the petitioner under Section 439 Cr.P.C for grant of regular bail in case having FIR No.63 dated 15.02.2020 registered under Sections 302, 34 IPC at Police Station City Kharar, District SAS Nagar (Mohali).

2. The FIR in this case was registered against Sunny Dogar @ Sibbu and petitioner Kuldeep Singh and one unknown person on the basis of statement of complainant Yashpal wherein he alleged that on 12.02.2020 at about 10 PM, Sunny Dogar @ Sibbu came to his house and told him that his son Deepak Kumar @ Vicky had taken away his mobile phone worth Rs.14,000/- and Deepak Kumar @ Vicky should return the same to him by tomorrow and then Sunny Dogar went away from there. That on 13.02.2020, dead body of Deepak Kumar @ Vicky was found lying in the

mortuary PGIMER, Chandigarh and there are allegation that Deepak Kumar @ Vicky was murdered by present petitioner, Sunny Dogar with the help of their companion.

3. Counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and is incarcerated for last more than 3 years and is having no criminal history and during investigation, no incriminating article was recovered from his possession. It is further submitted that the entire case of prosecution is based on circumstantial evidence and during trial, complainant Yashpal and alleged eye witness Vikram are examined. It is further submitted that the presence of Vikram at the spot seems to be highly doubtful, as even after seeing that the accused persons were beating his real brother Deepak Kumar @ Vicky, he remained silent even on the next day. The counsel for the petitioner further submits that it will take considerable time for trial to conclude and co-accused Sunny Dogar is already given concession of regular bail vide order dated 11.04.2023 in CRM-M-21128-2022. The counsel for the petitioner further submits that case of the petitioner is on better footing then that of Sunny Dogar as certain motive behind the occurrence is attributed to the said accused.

4. The present petition is resisted by the State counsel who on instructions from ASI Kulwinder Singh submits that petitioner is the main accused who was named in the FIR and is in custody for the last more than 3 years. The State counsel further submits that the occurrence was witnessed by Vikram, real brother of the deceased. However, the State counsel has not disputed the fact that complainant and Vikram are already



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examined during trial, but it will take time for the trial to terminate as 15 more witnesses are yet to be examined on behalf of prosecution. The State counsel has not disputed the fact that Sunny Dogar to whom certain motive is attributed, is already enlarged on bail by this Court.

5. Counsel for the complainant also argued on the same lines and while supporting the arguments raised by the State counsel submits that the petitioner is not entitled to get benefit of regular bail as he actively participated at the time of occurrence which resulted in death of Deepak Kumar @ Vicky.

6. I have considered the submissions made by counsel for the parties.

7. The FIR in the present case was registered on the basis of the statement of complainant Yashpal which was recorded after the dead body of Deepak Kumar @ Vicky was found lying in mortuary of a hospital. As per testimony of PW-Vikram, he saw the accused person while they were giving beatings to the deceased who was his real brother, at about 10 PM on 12.02.2020. As per the counsel for petitioner, the silence of PW-Vikram at the relevant time makes his presence doubtful.

8. As per custody certificate furnished by the State counsel, the petitioner is in custody for the last more than 3 years and is having no criminal antecedents. Admittedly, complainant and eye witness Vikram are already examined during trial. So, there is no fear that if released on bail, the petitioner is going to influence the material witnesses. It will take considerable time for final disposal of trial as till date only 8 witnesses out of total 23 witnesses are examined from the side of prosecution. Co-accused

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Sunny Dogar who was also named in the FIR is already given concession of regular bail vide order dated 11.04.2023 by this Court.

9. In light of the above, this Court is of the view that no purpose is going to be served by prolonging the judicial custody of the petitioner. Thus, without expressing any opinion on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing of bail bonds and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

09.05.2024

Yogesh

**(KARAMJIT SINGH)
JUDGE**

**Whether speaking/reasoned:-
Whether reportable:-**

**Yes/No
Yes/No**