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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-31697-2024 (O/M)
Date of decision : 19.09.2024

Sandeep Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Ms. G.K. Mann, Senior Advocate with
Mr. Anmol Jeevan Singh Gill, Advocate
for the petitioner.

Ms. Vikas Suman Chaudhary, DAG Punjab.

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HARSH BUNGER, J. (ORAL)

1. This is second petition filed under Section 439 of the Code of Criminal Procedure on behalf of petitioner (Sandeep Singh) for grant of regular bail in case FIR No. 46 dated 22.04.2019, under Section 346 of the Indian Penal Code, 1860 (for short 'the IPC') (Sections 302, 364 and 201 of the IPC, added later on), registered at Police Station Mohkam Pura, District Amritsar (Punjab).

2. The first petition (CRM-M-13178-2022) was dismissed by this Court, vide order dated 23.08.2023 (Annexure P-2).

3. Status report dated 20.07.2024 by way of an affidavit of Sh. Gurinderbir Singh, PPS, Assistant Commissioner of Police (East), Amritsar

City, on behalf of respondent/State of Punjab has been filed, which is already on record.

3. Custody certificate dated 19.09.2024, of the petitioner has been filed by learned State counsel, which is taken on record, subject to all just exceptions.

4. Briefly, the afore-said case FIR has been registered on the complaint of one Pankaj Mahajan son of Pawan Kumar Mahajan; wherein, he stated that his brother Mohit Mahajan (aged about 30 years) was residing with him and was working with the financed vehicle recovery team of Damler Financial Services India Private Ltd. from around one year. It is alleged that on 20.04.2019, at about 2:00 p.m., Mohit Mahajan, went from home on his bullet motorcycle No.PB-02-DT-3740; however, he did not return till evening; whereupon, the complainant searched for him at his own level but could not find him nor did he (Mohit Mahajan) return back. As per the complainant, he had a suspicion that his brother Mohit Mahajan, has been kept confined by some unknown person at the unknown place. Accordingly, the action was sought; whereupon, the afore-said case FIR was registered.

5. Learned senior counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in the present case. It is submitted that initially FIR in question was registered under Section 346 of the IPC against some unknown persons, however, the petitioner was not named in FIR. Learned senior counsel for the petitioner further submits that petitioner was arrested on 02.05.2019 i.e. after a gap of 12 days, that too on the basis of statement of one Rakesh Kumar, who stated that the petitioner (Sandeep Singh) made extra judicial confession before him (Rakesh Kumar) that he took

deceased from the shop of Anil Kumar alongwith his motorcycle and murdered deceased Mohit Mahajan by strangulating him. It is contended that there is no evidence against petitioner except extra judicial confession, which is a weak kind of evidence. It is further contended that extra judicial confession allegedly suffered by petitioner before said Rakesh Kumar cannot be believed as the same was not made before any Councillor, Sarpanch or other respectable persons of the area. It is stated that the petitioner is ready to abide by all the conditions as may be imposed by this Court or by the trial Court; accordingly prayer for grant of regular bail is made.

6. Per contra, learned State counsel opposed the plea of petitioner for grant of regular bail on the ground of seriousness and gravity of offence. She further submitted that petitioner again suffered a disclosure statement on 05.05.2019, disclosing that he has hidden the gold rings of deceased-Mohit Mahajan, at his rental house in Guru Teg Bahadur Nagar, Ludhiana, which were got recovered at his instance, pursuant to the said disclosure statement. She submits that even the bullet motorcycle No. PB02-DT-3740 of deceased Mohit Mahajan, was recovered from the parking of a Railway Station, Amritsar, pursuant to the disclosure statement suffered by the petitioner. It is stated that out of total 27 prosecution witnesses, 26 have been examined and the trial is nearing completion. Learned State counsel further submits that there is a sufficient evidence pointing towards the complicity of the petitioner in the instant case. It is contended that the petitioner is involved in heinous offence of murder and is not entitled to the concession of regular bail and in case, the petitioner is enlarged on regular bail then he may tamper with the evidence and influence the material witnesses or he may abscond and flee

from justice which may delay the trial; accordingly, prayer for dismissal of the petition has been made.

7. In the instant case, the petitioner is an accused in a grave and heinous offence of murder of deceased Mohit Mahajan. Merely because the prosecution case rests on circumstantial evidence, the same cannot be the sole ground to release the petitioner on bail if during the course of investigation, sufficient evidence/material has been collected and a prima facie complete chain of events is established.

8 Hon'ble the Apex Court in ***Ramesh Bhavan Rathod vs Vishanbhai Heerabhai Makwana***, (2021) 6 SCC 230, observed that while deciding the application under Section 439 of the Code of Criminal Procedure, the High Court or for that matter, the Sessions Court; would not launch upon a detailed evaluation of the facts on merits since a criminal trial is still to take place. It was further observed that the outcome of the application has a significant bearing on the liberty of the accused on one hand as well as the public interest in the due enforcement of criminal justice on the other and the rights of the victims and their families are at stake as well.

9. Further, in ***Kalyan Chandra Sarkar v. Rajesh Ranjan @ PappuYadav***, 2004 (2) RCR (Criminal) 254, Hon'ble Apex Court held that the mere fact that the accused has undergone certain period of incarceration, by itself would not entitle the accused to be enlarged on bail, nor the fact that the trial is not likely to be concluded, in the near future either by itself or coupled with the period of incarceration would be sufficient for enlarging the appellant on bail when the gravity of the offence alleged is severe.

10. Keeping in view the aforementioned facts and circumstances, the present petition is dismissed; however, considering the fact that the petitioner

has been in custody since 02.05.2019 and while dismissing the first bail application of the petitioner i.e. CRM-M-13178-2022 vide order dated 23.08.2023, a direction was already issued to the trial court to make an endeavour to expedite the trial; therefore, I deem it appropriate to direct the trial court to conclude the trial in the present case within a period of 4 months from the next date fixed before the trial court.

11. Pending applications, if any, shall also stand disposed of.

12. Registry is directed to send a copy of this order to the trial court, for compliance.

(HARSH BUNGER)
JUDGE

19.09.2024
sjks

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No