



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

**CRM-M-44739-2024 (O&M)
Date of decision: 18.11.2024**

Gursewak Singh @ Kaka

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: None for the petitioner.

Mr. T.P.S.Walia, AAG, Punjab for the respondent.

MAHABIR SINGH SINDHU, J.

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 302, 323, 148 read with Section 149 of Indian Penal Code, 1860 (*for short 'IPC'*) [Section 449 IPC added later on], registered at Police Station 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 Kuma Mandal and also caused injuries to the complainant.

(3) It transpires that petitioner was granted the concession of interim bail by this Court on 20.09.2024 while observing as under:-

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*“Contends that all material witnesses have turned hostile.
Learned State counsel seeks time to have instructions in the
matter.*

Posted for 18.11.2024.

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

To be heard alongwith CRM-M-13742-2024.”

- (4) There is no representation on behalf of the petitioner.
- (5) Learned State Counsel, on instructions, is not able to dispute the above factual position to the effect that all prosecution witnesses have turned hostile; but opposed the prayer of petitioner.
- (6) Heard learned State Counsel and perused the paper-book.
- (7) It is not in dispute that petitioner was granted interim bail by this Court on 20.09.2024 and in pursuance thereof, he is regularly appearing before learned trial Court and there is no allegation or apprehension 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) In view of the above, no purpose would be served by sending the petitioner in custody at this stage. Consequently, the present petition is allowed. Interim bail granted to the petitioner, vide order dated 20.09.2024, is made absolute. He shall be admitted to bail on his furnishing bail/surety

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

18th November, 2024
Gagan

(MAHABIR SINGH SINDHU)
JUDGE

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