

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

CRM No. M-15883 of 2015 (O&M)

Date of Decision: 20.05.2015.

Malkit Singh & another

... Petitioners

Versus

State of Punjab

... Respondent

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Amandeep Singh Rai, Advocate for the petitioners.

Mr. Nikhil K. Chopra, DAG, Punjab.

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TEJINDER SINGH DHINDSA.J.

This order shall dispose of the instant petition filed under Section 439 Cr.P.C. seeking the benefit of regular bail to the petitioners pending trial in case FIR No.181 dated 28.09.2013, under Sections 302/458/506/34 IPC, registered at Police Station Sadar Jagraon, District Ludhiana.

Counsel for the parties have been heard.

FIR was registered on 28.09.2013 on the statement of Paramjit Kaur (since deceased) relating to an occurrence that took place on the intervening night of 24/25.9.2013. In the statement recorded on 28.09.2013, Paramjit Kaur stated that her husband had gone to a different village to harvest rice with a combine and while she was sleeping in the courtyard of the house, at about 11 P.M., 3 persons entered the house by scaling the wall and out of whom, she recognized Malkit Singh and Kuldeep Singh both sons of Bachittar Singh i.e. the present petitioners. Such three persons are stated to have attacked the complainant and alleged to have given kick

blows in the stomach and also given an electric shock with an electric wire cable on her right ear with an intention to kill her. Complainant stated that she became unconscious on account of the assault of the three assaulters and they left her presuming to be dead. On the next day i.e. 25.09.2013 at about 12 P.M. when she regained consciousness, she raised her voice and whereupon a lady residing in her neighborhood as also her uncle-in-law, namely, Major Singh got her admitted in a hospital at Jagraon.

As per statement of Paramjit Kaur (deceased), the motive attributed is that she was in illicit relationship with Malkit Singh (present petitioner No.1) about 1 ½ years prior to the alleged occurrence and which was broken upon her husband having come to know about the same and now Malkit Singh was insisting upon developing physical relations and which she had resisted.

Paramjit Kaur is stated to have died thereafter on 03.10.2013. The cause of death has been opined to be septicemia which may have been on account of certain injuries sustained by her.

The petitioners have been in custody since 06.10.2013.

Learned State counsel upon instructions from ASI Karamjit Singh would apprise the Court that out of 17 prosecution witnesses cited, 9 have already been examined and one has been given up. 7 prosecution witnesses still remain to be examined. The trial would take time to conclude.

Counsel has adverted to the testimony of PW5/6, ASI Lakhbir Singh, who had recorded the statement of Paramjit Kaur (deceased) in the hospital, and who in his cross-examination stated that Paramjit Kaur was in a semi-conscious condition at the time of recording of her statement and no

doctor was present at that point of time and the only person present was husband of the deceased i.e. Kulwant Singh.

It has gone uncontroverted that Kulwant Singh has not supported the prosecution version during the course of trial.

As such, offence under Section 302 IPC, if at all, is made out against the present petitioners would be a moot question to be considered during the course of trial.

In the totality of circumstances and in view of the length of incarceration already suffered by them, petitioners are held entitled to the concession of bail.

Petition is allowed. Petitioners, namely, Malkit Singh and Kuldeep Singh be enlarged on bail subject to the satisfaction of trial Court/Duty Magistrate, Ludhiana.

Disposed of.

20.05.2015

harjeet

**(TEJINDER SINGH DHINDSA)
JUDGE**