

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-38580-2015

Date of Decision : December 24, 2015

Gurjant Singh

....Petitioner....

v.

State of Punjab

....Respondent....

CORAM:- HON'BLE MR. JUSTICE JASPAL SINGH

Present:- Mr. Piyush Sharma, Advocate,
for the petitioner.

ASI Tarsem Singh with
Mr. Rahul Verma, AAG, Punjab.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

JASPAL SINGH, J.

This order shall dispose of second petition preferred by the petitioner, under Section 438 of the Code of Criminal Procedure (for short, "Cr.P.C."), seeking pre-arrest bail, in case FIR No.97, dated 24.04.2015, under Sections 304, 201 and 34 IPC registered at Police Station Sadar Ferozepur, District Ferozepur.

2. The first bail application of the petitioner was dismissed on merits by this Court vide order dated July 21, 2015 passed in CRM-M-22222-2015.

3. The contention of learned counsel for the petitioner is that the pre-arrest bail petition of the petitioner was dismissed by this

Court on the ground that when Harbans Singh and Gursewak Singh

@ Sewa, co-accused of the petitioner were subjected to custodial interrogation, they disclosed that head injury to the deceased was caused by the present petitioner, which proved fatal and further that weapon used during commission of alleged crime is yet to be recovered. But, in fact, no such disclosure statement was ever made either by Harbans Singh or by Gursewak Singh @ Sewa. There is no such disclosure statement suffered by either of them annexed with the report under Section 173 (2) Cr.P.C., which has been presented qua them. Moreover, petitioner has also collected a copy of disclosure statement alleged to have been made by Gursewak Singh @ Sewa during the investigation of the case but it does not relate to any role attributed to the petitioner. Moreover, there is no evidence at all against the petitioner that he was responsible for causing the death of Vikram Singh @ Vicky, son of the complainant. Otherwise, petitioner is ready to join the investigation and abide by all the terms and conditions imposed by this Court in case he is granted the concession of bail.

4. On the other hand, learned State counsel has submitted that he has also gone through the police file but no such disclosure statement of Gursewak Singh @ Sewa or Harbans Singh is available on the police file.

5. But, it is surprising to note as on what basis the arguments were submitted by learned State counsel, attributing the main role to the present petitioner. However, this Court has gone through the police file minutely. Though, no such disclosure statement is available on police file but it has emerged that

Lakhwinder Singh saw all the three persons namely Harbans Singh, Gursewak Singh @ Sewa and Gurjant Singh while going towards village Khalchian Kedan on motorcycle and later on, he came to know that a person named Vikram Singh @ Vicky had come to them, who was subjected to beatings by them and when he succumbed to the injuries, his dead body was thrown in the area of village Khalchian Kadeen by the side of G.T. road. Apart from his statement, Gurjant Singh-petitioner as well as his co-accused Gursewak Singh @ Sewa and Harbans Singh also suffered an extra-judicial confession in respect of causing death of Vikram Singh @ Vicky and throwing away his dead body in order to screen away the evidence. Thus, even at present, there is an evidence in the shape of last seen and that of extra-judicial confession pointing out the role of the petitioner. So, in such circumstances, this Court is of the considered view that custodial interrogation of the petitioner is necessary to bring home the actual and real facts to the fore. The report under Section 173 (2) Cr.P.C. has been presented only against Gursewak Singh @ Sewa and Harbans Singh as petitioner-Gurjant Singh could not be arrested by the police. It appears that even after the dismissal of previous bail petition on July 21, 2015, petitioner is at large.

6. Taking into consideration the aforesaid aspects, this Court does not find any merit in the instant petition. As such, same is dismissed.

(JASPAL SINGH)
JUDGE

December 24, 2015
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