

CRM NO. M-7883 of 2015 (O&M)
DECIDED ON: March 17, 2015

...Petitioner

versus

...Respondent

CORAM : HON'BLE MR. JUSTICE JASPAL SINGH

Present : Mr. Anil Kumar Bhardwaj, Advocate
for the petitioner.

Mr. J.S. Sekhon, AAG, Punjab.

JASPAL SINGH, J. (ORAL)

Petition under Section 439 Cr.P.C has been filed seeking grant of regular bail to the petitioner in case FIR No. 70 dated 21.05.2010 under Section 302 IPC registered at Police Station Division No.2, Ludhiana.

The instant case has been registered on the basis of statement of Charanjit Kaur wife of late Mohinder Singh resident of Iqbal Nagar, Gali No. 2, House No. 12497 Police Station Jodhowal, Distt. Ludhiana. Almost true translated version of the same reads as under:

“That I am residing at the above mentioned address at my parental house. My husband has already expired. Jagdish Singh Bindra was my uncle who used to reside at Kucha Anayat, Brown Road and he was an auto-driver. He had adopted a child namely Manjot Singh. My uncle told me many times that Manjot Singh used to harass him. Manjot Singh had already got his house transferred in his own name after that he invested in share market. For about 20 days Manjot Singh had turned my uncle out of the house and my uncle met with an accident due to turtling of the auto and my uncle

had received many injuries. When I came to know about it I came to meet my uncle at Kucha Anayat and my uncle was lying on bed. On that day after giving Kharbooja (Sugar Melon) and milk to my uncle I left for my house at Tajpur Road. Today morning neighbour of my uncle namely Pamma called me up on telephone and told me that your uncle has expired. He also told me that last night at about 12.30 he had heard noise of quarrel between Manjot Singh and Jagdish Singh. When I reached the locality and enquired from neighbours, then the neighbouring lady Ravinder Kaur wife of Paramjit Singh told me that at about 12.30 noise could be heard from your uncle's house. After that I saw dead body of my uncle, left side of whose neck was a bluish mark. I suspect that my uncle has been murdered last night by his son Manjot Singh and his wife by strangulation. Legal action be taken against them.”

The contention of learned counsel for the petitioner is that the contents of FIR reveal that deceased had recently met with an accident, in which, he had received multiple injuries. So, possibility cannot be ruled out that bluish mark on his neck may be one of the injuries received by him in accident. Moreover, during investigation of the case, prosecution has only alleged to have recovered a string (Nala) used to tie lowers, with which, it is not possible to strangle a person and that it will leave a bluish mark on the neck. Similarly, there is also nothing in the autopsy report that bluish mark was in a circular form around the neck. At the time of autopsy, viscera of deceased was preserved. The same was sent for chemical examination. Report whereof, has been received which discloses the detection of chloro compound group of insecticide.

In fact, complainant herself served musk melon and milk to deceased. Thus, there is every likelihood that she served the same by mixing insecticide, which has subsequently been detected in viscera of deceased. Moreover, complainant-Charanjit Kaur, who appeared in the witness box as PW-1 has since been declared hostile by prosecution during her cross-examination.

Petitioner also undertakes to comply with any direction or condition imposed by this Court, in case he has been granted the concession of bail.

Learned State counsel has resisted the bail application submitting that petitioner has already prevailed upon the complainant. Though, she supported the prosecution version earlier unfolded by her to the police but during cross-examination, which was conducted at a subsequent stage after recording of her examination-in-chief, she taught the line of accused. The possibility of tampering with evidence which remains to be examined cannot be ruled out in case he will be granted the concession of bail.

This Court has given a deep thought to the aforesaid submissions made by learned counsel for the parties and have perused the record available on file.

It is an undisputed fact that complainant while appearing in the witness box as PW-1 has fully supported the case of prosecution as mentioned in report under Section 173(2) Cr.P.C., but at the request of defence counsel, her cross-examination was deferred. On the deferred date, complainant instead of supporting the version unfolded by her in her examination-in-chief, taught the line of accused. Ultimately, she was declared hostile and was confronted with the contents of her statement earlier made to the police.

Moreover, other witnesses cited in the list annexed with report under Section 173(2) Cr.P.C., including material witnesses namely Ravinder Kaur and Inderjeet Singh except Dr. R.K. Sharma and a photographer have already been examined. This fact is evident from order dated October 13, 2014, some of the witnesses must have examined subsequent thereto. Moreover, at this stage, no opinion can be expressed either with regard to actual cause of death or with regard to alleged false implication of the petitioner in the instant

case.

In the light of what has been discussed above, no case is made out for the grant of bail especially considering the gravity and nature of offence.

Dismissed.

March 17, 2015
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(JASPAL SINGH)
JUDGE