

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

CRM-M-8188 of 2015.
Decided on:-17.12.2015.

Lakhwinder Singh @ Lakha.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

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

Present:- Mr. Navjot Singh, Advocate
for the petitioner.

Mr. Gurinderjit Singh, DAG, Punjab.

Mr. Rahul Bhargava, Advocate
for the complainant.

HARI PAL VERMA, J. (ORAL)

Prayer in this petition filed under Section 439 Cr.P.C. is for grant of regular bail to petitioner Lakhwinder Singh @ Lakha son of Dalbir Singh, resident of village Kamoke, Police Station Beas, Tehsil Baba Bakala, District Amritsar in case FIR No.175 dated 10.7.2014 under Sections 302, 324 and 120-B IPC registered at Police Station Beas, Amritsar Rural, District Amritsar.

Learned counsel for the petitioner contends that a bare perusal of the FIR shows that name of the petitioner does not figure in it. He refers to the statement of complainant Dalbir Kaur, who appeared before the trial Court as PW2 and submits that even in her statement made before the trial Court on 15.12.2014, she has not named the petitioner. In this regard, he refers to the statement of Dalbir Kaur (PW2), which reads as under:

“There was a land dispute going between us and Harjinder Singh alias Lali son of Tarlok Singh, Sarabjit Singh alias Gintu son of Tarlok Singh, resident of Kammoke, Manmohan Singh Sarpanch son of Harnam Singh, Surjit Singh son of Harnam Singh and Sukhwinder Singh alias Kannedy son of Avtar Singh and his wife Kuldip Kaur had forcibly occupied our land with the help of Harjinder Singh and Sarabjit Singh and we have filed a case against them in the Court. I was suspecting that Harjinder Singh, Sarabjit Singh, Manmohan Singh, Surjit Singh, Sukhwinder Singh and Kuldip Kaur by hatching a conspiracy with the persons had murdered my son and daughter in law. I got recorded my statement Ex.PA to the IO on which I identify my signatures at point A. I still suspect that these above named persons might have conspired to kill my son and daughter in law.”

Learned counsel for the petitioner further submits that even Bachhittar Singh, who was stated to be an eye-witness has also not named the petitioner in his statement while appearing as PW3 before the trial Court. He also refers to the statement of Bachhittar Singh (PW3) which reads as

under:

“On 9.7.2014, I was present in my house alongwith my family and I was lying asleep in our house alongwith my brother Guriqbal Singh, his wife Kirandeep Kaur and their son Mandhir Pal Singh at night time. Accused Manmohan Singh son of Harnam Singh, his brother Surjit Singh alias Bittu son of Harnam Singh, Sukhwinder Singh alias Kannedy son of Avtar Singh, Harjinder Singh alias Lali son of Tarlok Singh, Sarabjit Singh alias Gintu son of Tarlok Singh alongwith one Kuldip Kaur came there armed with datars and Kirpans and all these above named accused attacked us with Kirpans and datars. All these above named accused killed my brother Guriqbal Singh and his wife Kirandeep Kaur and also injured me. Accused person in the court are not the assailants who killed my brother and sister in law. In fact, the accused party present in the Court has got me admitted in hospital and helped me. Accused present in the Court have not injured me.”

Learned counsel for the petitioner further contends that the petitioner is in custody since 29.8.2014. He has claimed that the petitioner has falsely been implicated in the case for the reason that there are other cases pending against him. Such like cases are stated to be 17 in number, but he has already been acquitted in 7 cases. It is because of other cases registered against him, he has falsely been implicated in the present case by the police.

Learned counsel for the complainant does not controvert the

aforesaid contention of learned counsel for the petitioner, rather, fairly states that neither name of the petitioner figures in the FIR, nor he has been named by Bachhittar Singh in his examinations-in-chief while deposing as PW3 before the trial Court.

On the other hand, learned State counsel, on instructions from ASI Purushottam Lal, submits that the petitioner has been named by complainant Dalbir Kaur and Bachhittar Singh in their statements recorded by the police under Section 161 Cr.P.C. He further contends that Dalbir Kaur (PW2) and Bachhittar Singh (PW3) have resiled from their statements for the reason as there are many cases pending against the petitioner.

Heard.

Taking into consideration the fact that neither the complainant, namely, Dalbir Kaur, who has appeared as PW2 nor Bachhittar Singh, who has appeared as PW3 before the trial Court, have neither mentioned the name of the petitioner nor his name finds mention in the FIR coupled with the fact that he is in custody since 29.8.2014, this Court is of the considered opinion that the petitioner deserves to be extended the benefit of regular bail. Further more, Dalbir Kaur (PW2) and Bachhittar Singh (PW3) have been declared hostile by the trial Court.

Further, a perusal of the statements of Dalbir Kaur (PW2) and Bachhittar Singh (PW3) reveals that though the other accused have been named by them in a very specific manner, but the petitioner has not been

named therein even remotely.

The contention of learned State counsel that Dalbir Kaur (PW2) and Bachhittar Singh (PW3) have named the petitioner in their statements under Section 161 Cr.PC cannot be a ground to decline the concession of bail to the petitioner. Since the petitioner has not been named in the FIR as well as in the statements of PW2 and PW3, mere involvement of the petitioner in other cases cannot be a ground to decline the relief claimed herein.

Accordingly, the instant petition is allowed and the petitioner is admitted to regular bail on his furnishing bail bonds and surety bonds to the satisfaction of the trial Court.

It is made clear that the observations made hereinabove shall have no expression on the merits of the case and the trial Court shall decide the case on the basis of availability of evidence.

December 17, 2015
Yag Dutt

(HARI PAL VERMA)
JUDGE