

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

CRM No.M-1043 of 2016 (O&M)

Date of Decision: 03.02.2016

Babbu

... Petitioner

Versus

State of Punjab

... Respondent

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

Present:- Mr. B.S. Bhalla, Advocate for the petitioner.

Ms. Manpreet Dhaliwal, AAG, Punjab.

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TEJINDER SINGH DHINDSA.J.

This order shall dispose of the present petition filed under Section 439 Cr.P.C. seeking benefit of regular bail to the petitioner pending trial in case FIR No.80 dated 28.05.2014, under Sections 302, 34 IPC, registered at Police Station Baghapurana, District Moga.

Having heard counsel for the parties at length, this Court is inclined to accept the prayer made in the instant petition.

Deceased in the present case is Jagsir Singh whose dead body was recovered from a well situated close to a brick kiln on 27.04.2014. Initially, statements of Ram Singh son of Munshi Singh and Resham Singh son of Malkiat Singh, stated to be relatives of Jagsir Singh were recorded and therein they had stated that it was a case of natural death and Jagsir Singh had died having slipped into the well.

Present FIR in the case was recorded on the basis of statement recorded by grandmother of deceased Jagsir Singh approximately one month later. As per statement got recorded by Malkit Kaur, the family was watching television after having dinner and then Babbu i.e. the present

petitioner and Janta had taken away her grandson Jagsir Singh for a walk. Thereafter, at about 10/11 P.M., Jagsir Singh was not found in the room and accordingly, the complainant alongwith her daughter Gurdeep Kaur started searching for Jagsir Singh and even made inquiries from Babbu/present petitioner and Janta and they were told that they were not aware about the whereabouts of Jagsir Singh. Next day, the complainant was informed by Sukhdev Singh Jamadar that Jagsir Singh is lying dead in a well which is about 40/50 feet deep close to the brick kiln where the complainant alongwith her family used to work. Complainant in her statement recorded on 27.05.2014 stated that initially she did not have any doubt/suspicion on anyone but later had come to know that it is Babbu/present petitioner who has killed her grandson Jagsir Singh by calling him from the house and by throwing him in a well. Motive attributed in such statement is that she had come to know that Babbu/present petitioner entertained a suspicion that Jagsir Singh was in an illicit relationship with his sister, namely, Lachho.

On the basis of such statement of Malkit Kaur, the present FIR was registered on 28.05.2014. Petitioner was arrested on 29.05.2014.

The investigation having been completed, challan was presented and even charges had been framed. It has gone uncontroverted that the complainant Malkit Kaur has been examined before the trial Court as PW-2 and her deposition has been placed on record and adverted to by the learned counsel for the petitioner. Perusal of such statement would reveal that an improvement/different version is sought to be portrayed before the trial Court. As opposed to the statement recorded on 27.05.2014 of Malkit Kaur which led to the registration of the FIR in her deposition, before the trial Court, she has stated that upon confronting Babbu/present

petitioner, the petitioner himself had confessed that he had killed Jagsir Singh because he was having illicit relations with his sister. Such statement recorded before the trial Court as PW-2 is at variance with the initial statement dated 27.05.2014 which led to the registration of the FIR one month after the discovery of the dead body of Jagsir Singh.

The statements of Ram Singh and Resham Singh recorded during the inquest proceedings on 27.04.2014 and who are stated to be close relatives of Jagsir Singh point towards a natural death.

Petitioner has been in custody since 29.05.2014.

Learned State counsel has apprised the Court that out of nineteen prosecution witnesses cited, only five have been examined till date. The trial, as such, would take some time to conclude. Complainant, Malkit Kaur i.e. the grandmother of the deceased has already been examined.

It is not the case made out on behalf of the State that in case the petitioner is granted benefit of bail, he would be in a position to influence and hamper the course of trial.

In view of the above and coupled with the length of incarceration already suffered by the petitioner, present petition is allowed. Petitioner be enlarged on bail subject to satisfaction of the learned Chief Judicial Magistrate/Duty Magistrate, Moga.

Disposed of.

03.02.2016

harjeet

**(TEJINDER SINGH DHINDSA)
JUDGE**