

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM No. M-13830 of 2016 (O&M)
Date of Decision: 26.05.2016

Mani Mahajan

--Petitioner

Versus

State of Punjab

--Respondent

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

Present:- Mr. Dheeraj Mahajan, Advocate for the petitioner.

Mr. K.D. Sachdeva, Addl. A.G., Punjab.

TEJINDER SINGH DHINDSA.J

This order shall dispose of the present petition filed under Section 439 Cr.P.C seeking the benefit of regular bail to the petitioner in case F.I.R. No.157 dated 27.12.2015 under section 304 I.P.C registered at Police Station, City Batala, District Gurdaspur.

Learned counsel for the parties have been heard.

F.I.R has been registered on the complaint of Rajinder Kaur made on 26.9.2015. She stated that her husband Gurnam Singh was doing a private job at Bus Stand, Batala. On 22.9.2015 he had left his house in the early morning hours for joining duty and about about 6 P.M on the same day complainant received a telephonic call from her sister that Gurnam Singh has received injuries. Brother-in-law/Devar of the complainant was called upon to proceed to Batala and to inquire about the whereabouts of Gurnam Singh. At about 6.30 P.M on the same day i.e. 22.9.2015 the dead body of Gurnam Singh was brought home. Complainant asserted that at that point of time one Kulwant Singh @ Kanta and who also used to work with Gurnam Singh (since deceased) had stated that Gurnam Singh had suffered a heart attack and had died. Accordingly, considering it to be a natural

death, body of Gurnam Singh was cremated on the following day i.e. 23.9.2015.

Complaint leading to the registration of the F.I.R was submitted by Rajinder Kaur on 26.9.2015 by setting up a version that her husband Gurnam Singh has not died of a heart attack and rather it is the present petitioner who was a conductor of a bus belonging to Gulmarg Transport Company, had entered into a fight with her husband and as such, along with one unknown person had killed him. Complainant also asserted that Kulwant Singh @ Kanta was aware about everything but had intentionally with a view to save the present petitioner as also other unknown person had concocted a story of Gurnam Singh having suffered a heart attack.

Petitioner was arrested on 27.12.2015 i.e. the date of registration of the F.I.R.

Investigation in the case having been completed, challan was presented on 24.2.2016. Even charges thereafter have been framed.

Counsel for the petitioner has contended that in the entire challan document there is no statement recorded of any independent witness under Section 161 Cr.P.C who may have witnessed the occurrence.

Prosecution, however, is relying upon the statement of one Vijay which was recorded after presentation of the challan and on 12.5.2016 and who stated that he had seen the present petitioner inflicting blows upon Gurnam Singh (deceased).

It has also gone uncontroverted that Kulwant Singh @ Kanta and against whom the complainant had pointed a finger that he knows everything and was attempting to shield the present petitioner, has not been nominated as an accused.

Concededly, no post mortem was conducted on the body of Gurnam Singh (deceased).

It would be a case of circumstantial evidence.

The offence under section 304 I.P.C whether would be made against the present petitioner, would be a moot issue to be considered during the course of trial.

The petitioner has already faced incarceration for a period of almost 5 months.

Without making any observations on merits, present petition is allowed. Petitioner be enlarged on bail subject to satisfaction of Trial Court/Duty Magistrate, Gurdaspur.

Petition disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

26.05.2016
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