

222 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Hemlata
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CRM-M-14741-2018(O&M)
Date of decision:20.04.2018

Surinder Singh @ Bhuri

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Ashok Paul Batra, Advocate
for the petitioner.

Ms. Ruchika Sabharwal, AAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of regular bail to the petitioner in FIR No.220 dated 15.12.2016, for offence punishable under Sections 364, 302, 201, 148 and 149 of the Indian Penal Code (in short 'IPC') registered at Police Station City-1, Abohar, District Fazilka.

Learned counsel for the petitioner submits that the co-accused of the petitioner, namely, Baljinder Singh @ Girdhari has already been granted concession of regular bail vide order dated 23.03.2018 passed in CRM-M-11710-2018. The operative part of the order is reproduced as under:-

“Counsel for the petitioner has submitted that as per the allegation in the FIR, the deceased died on 28.12.2010 and his postmortem was conducted on 29.12.2010 in which cause of death was opined to be a head injury. It is further submitted that when father of the deceased got the DDR registered on 25.12.2010, he has not raised any suspicion on any person. On 14.12.2016, Sandeep Singh son of Satpal Singh, a witness overheard a talk between co-accused Mandeep Singh and Sukhwinder Singh that they have committed the murder of Manjit Singh @ Mithu in connivance with Surjit Singh, Baljinder Singh and Surender Singh. In that conversation, it is alleged that Mandeep Singh was saying that they took Manjit Singh @ Mithu from the shop to the field and after committing his murder, they have thrown his dead body

in gangcanal and due to this curse, his wife had a miscarriage and he believed that this happened due to murder of Manjit Singh @ Mithu. It is also stated that Sukhwinder Singh stated that after the murder of Manjit Singh @ Mithu, he has become a patient of heart disease and they all should undergo religious rituals so that they may not suffer any loss. On hearing such conversation, the aforesaid Surjit Singh got the FIR registered against the petitioner and his co-accused.

Counsel for the petitioner has further submitted that the alleged conversation is after 06 years of the date of incident and the challan has already been presented on 15.03.2017, charges have been framed and the petitioner is in judicial lock up since 28.01.2017. It is further submitted that the case of the prosecution is based on all circumstantial evidence and till date, no prosecution witness has been examined and the petitioner is no more required for further custodial interrogation.

Counsel for the State, on instructions from ASI Baldev Singh, has not disputed the factual position with regard to the dates and the statement made by the complainant – Surjit Singh who got the aforesaid FIR registered.

Without commenting anything on merits of the case and considering the fact that the petitioner is in judicial lock up since 28.01.2017 and the FIR has been registered on the basis of the information given by Sandeep Singh to the complainant that he has overheard two co-accused i.e. Mandeep Singh and Baljinder Singh talking to each other about committing the murder of Manjit Singh @ Mithu and also in view of the fact that out of 24 prosecution witnesses, no witness has been examined so far, the present petition is allowed and the petitioner is directed to be released on bail subject to his furnishing fresh bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate.”

Learned counsel for the petitioner submits that the role attributed to the petitioner is similar to the role attributed to the aforesaid co-accused-Baljinder Singh @ Girdhari. He further submits that the petitioner is in judicial lock up for the last 01 year, 01 month and 05 days and is not involved in any other case. It is also submitted that till date, no prosecution witness has been examined.

Learned State counsel has filed the custody certificate and as per this certificate, the petitioner has undergone 01 year, 01 month and 05 days of actual sentence and is not involved in any other case. Learned State counsel, on instructions from Investigating Officer, has not disputed the fact that till date, no prosecution witness has been examined.

Without commenting anything on merits of the case and considering the fact that the petitioner is in judicial lock up for the last 01 year, 01 month and 05 days and the FIR has been registered on the basis of the information given by Sandeep Singh to the complainant that he has overheard two co-accused i.e. Mandeep Singh and Baljinder Singh talking to each other about committing the murder of Manjit Singh @ Mithu and also in view of the fact that out of 24 prosecution witnesses, no witness has been examined so far, the present petition is allowed and the petitioner is directed to be released on regular bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail, if the petitioner is found misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

20.04.2018
Hemlata

Whether speaking/reasoned
Whether reportable

Yes / No
Yes / No