

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

CRM-M No.3586 of 2018

Date of Decision: 20.08.2018

Ajay Kumar @ Bunty

....Petitioner

Versus

State of Punjab

....Respondent

BEFORE :- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. K.S. Sandhu, Advocate
for the petitioner.

Ms. Rashmi Attri, A.A.G., Punjab.

Mr. R.S. Rai, Sr. Advocate
with Mr. Gautam Dutt, Advocate
for the complainant.

DAYA CHAUDHARY, J. (ORAL)

This petition has been filed by petitioner-Ajay Kumar @ Bunty under Section 439 Cr.P.C for grant of regular bail to him in case FIR No.51 dated 29.03.2016 registered under Section 302 IPC (lateron added Sections 454, 380, 411, 120-B IPC) at Police Station Tanda, District Hoshiarpur, Punjab.

Learned counsel for the petitioner submits that main accused Kirandeep Kaur and Jasjit Singh @ Jassi have been released on regular bail by this Court. The orders passed in those cases are reproduced as under :-

“Order passed in case of Kirandeep Kaur”

“Petitioner seeks the benefit of regular bail in case F.I.R. No.51 dated 29.3.2016 under sections 302, 454, 380, 411, 120-B I.P.C, registered at Police Station, Tanda, District Hoshiarpur.

Learned counsel for the parties have been heard.

Briefly it may be noticed FIR came to be registered on the statement of Kuldeep Singh son of Kartar Singh. Deceased are

Santosh Kaur and Sukhdev Singh i.e. real sister and brother-in-law respectively of the complainant. Present petitioner is the daughter-in-law of deceased Santosh Kaur.

As per statement of complainant Kuldeep Singh, he had received a telephonic call on 28.3.2016 from his other sister namely Vijay Kumari that she had gone to the house of Santosh Kaur and had discovered Santosh Kaur as also her husband Sukhdev Singh immobile and not responding. There upon the complainant along with his wife Manjit Kaur had also proceeded to the spot and discovered the bodies of Santosh Kaur and Sukhdev Singh. There were no external marks of injury noticed on the bodies. Initial statement of complainant is that the death of both sister and brother-in-law appeared to be unnatural and accordingly postmortem of the dead bodies be got done and reason of death be ascertained. Complainant, however, stated that he had no suspicion over anybody. The bodies were discovered on 28.3.2016.

The present petitioner, who was otherwise residing in Australia is stated to have come back to India on the following day i.e. On 29.3.2016 when the cremation took place.

It has gone uncontroverted that as per Post Mortem Report furnished by the Medical Board the cause of death of both Santosh Kaur and Sukhdev Singh was given as asphyxia and by way of smothering.

It so transpires that the present petitioner is sought to be implicated on the basis of a supplementary statement recorded of Smt. Vijay Kumari i.e. sister of deceased Santosh Kaur recorded under section 161 Cr.P.C on 26.4.2016. Such supplementary statement has been placed on record at Annexure P-5 and has been perused. As per contents thereof the present petitioner is alleged to have made confessional statement before Vijay Kumari stating that she was in an illicit relationship with Jasjeet Singh i.e. son-in-law of Vijay Kumari and which fact had come in the knowledge of both the deceased. As per confessional statement Santosh Kaur and Sukhdev Singh i.e. in-laws of the petitioner were got murdered from Jasjeet Singh and his friends Ajay Kumar and Maninder Singh. Even the gold ornaments were stated to have been stolen. Furthermore, as per supplementary statement certain messages exchanged between the present petitioner and Jasjeet Singh had also come in the knowledge of husband of the petitioner and it is under such circumstances that the confessional statement had been made before Vijay Kumari pleading for help in the matter.

Petitioner was arrested on 26.4.2016.

Investigation in the case is complete, challan presented and charges framed.

Learned State counsel upon instructions from H.C. Gurmeet Singh apprises the Court that out of 36 prosecution witnesses cited, 3 have been examined till date. The trial, as such, would take time to conclude.

It is a case of circumstantial evidence.

The main accused in the case would be seen as Jasjeet

Singh. Even as per prosecution version the role of the present petitioner is that of a conspirator and has been booked with the aid of section 120-B I.P.C.

It may also be noticed that even though, prosecution is relying upon certain data extracted from the mobile phone recovered of main accused Jasjeet Singh which reflects certain Whats App having been received on his phone from the present petitioner, yet, at the same time as per challan the mobile phone make 'Lenovo A-6000' of the petitioner which had also been recovered, was sent to the F.S.L but as per report Ex.2 data could not be extracted from the mobile phone. However, data from the Micro S.D Card of such phone was extracted and a soft copy of the data was provided but which does not corroborate the Whats App messages contained in the phone recovered from Jasjeet Singh. In any event it is a matter to be considered by the Trial Court.

In the totality of circumstances, without making any observations on merits and keeping in view the length of incarceration already suffered by the petitioner, she is held entitled to the benefit of bail. Petitioner be enlarged on bail subject to satisfaction of Trial Court/Duty Magistrate, Hoshiarpur.

Petition disposed of.”

“Order passed in case of Jasjit Singh @ Jassi”

“This petition has been filed under Section 439 Cr.P.C for grant of regular bail to the petitioner in case FIR No.51 dated 29.03.2016 registered under Sections 302/454/380/411/120-B IPC at Police Station Chabbewal, District Hoshiarpur.

Learned counsel for the petitioner submits that it is blind murder case and is based on circumstantial evidence but all circumstances have not been connected. There was delay in lodging of the FIR. Both the deceased were killed on 27.03.2016 and the matter was reported to the police on the next date i.e 28.03.2016. As per complaint made Kuldeep Singh, Surinder Singh and Bachittar Singh along with other persons were present in the house of the deceased but he did not make any complaint before the police authorities about the occurrence. Learned counsel also submits that neither the name of the petitioner is mentioned in the FIR nor even a single suspicion has been raised. There was no external mark of injuries on the dead bodies. All the household articles were found to be intact. There was no damage to the articles lying in the house. Learned

counsel also submits that the allegations are there that there was a conspiracy between the petitioner and co-accused Kirandeep Kaur, who has been released on regular bail vide order dated 11.01.2018 passed in **CRM-M No.37774 of 2017** by this Court. The petitioner is in custody since 27.04.2016 and all material witnesses have been examined. The trial may take some more time to conclude and no useful purpose would be served by keeping the petitioner behind bars when co-accused Kirandeep Kaur has already been released on regular bail.

Learned State counsel has not disputed the custody period but has opposed the submissions made by learned counsel for the petitioner on the ground that the articles were recovered from the petitioner and those articles were verified by the children of the deceased.

Heard the arguments of learned counsel for the parties and have also perused the documents available on the file including the order passed in case of co-accused Kirandeep Kaur.

As per statement of complainant Kuldeep Singh, he had received a telephonic call on 28.03.2016 from his other sister namely Vijay Kumari stating therein that she had gone to the house of Santosh Kaur and had discovered Santosh Kaur and her husband Sukhdev Singh who were not responding to the mobile calls. Thereupon, the complainant along with his wife Manjit Kaur went to the spot and found bodies of Santosh Kaur and Sukhdev Singh. There was no external marks of injury found on the bodies of deceased. Initial statement of the complainant was recorded, wherein, it was stated that the death of both sister and brother-in-law appeared to be unnatural and accordingly postmortem of the dead bodies be got done and reason of death be ascertained. However, the complainant stated that he had no suspicion over anybody. As per Post Mortem Report, the cause of death of both Santosh Kaur and Sukhdev Singh was given as *asphyxia* and by way of smothering.

In the order passed in case of co-accused Kirandeep Kaur, it has been mentioned that the prosecution is relying upon

certain data extracted from the mobile phone recovered from the main accused Jasjeet Singh which reflects certain Whats App having been received on his phone from petitioner/accused Kirandeep Kaur. As per challan, the mobile phone make 'Lenovo A-6000' of Kirandeep Kaur, which was recovered was sent to the Forensic Science Laboratory but as per report Ex.2, data could not be extracted from the mobile phone. However, data from the Micro S.D Card of such phone was extracted and a soft copy of the data was provided but it does not corroborate Whats App messages contained in the phone recovered from Jasjeet Singh. By considering that all these allegations are to be looked into by the trial Court, Kirandeep Kaur was released on regular bail vide order dated 11.01.2018.

In view of the facts and circumstances that all material witnesses have already been examined; the allegations are matter of record, which are to be seen by the trial Court; petitioner is in custody for the last about two years and four months and that co-accused Kirandeep Kaur has already been released on regular bail, the present petition is allowed and petitioner, namely, Jasjit Singh @ Jassi is directed to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court.”

Learned counsel for the petitioner submits that the case of the petitioner is at par with co-accused Kirandeep Kaur and Jasjit Singh @ Jassi, who have been released on regular bail. The petitioner is in custody for the last more than 02 years and 04 months and all material witnesses have been examined. No useful purpose would be served by keeping the petitioner behind bars.

Learned State counsel has not disputed the custody period and release of co-accused, namely, Kirandeep Kaur and Jasjit Singh @ Jassi on regular bail.

By considering the custody of the petitioner, which is more

than 02 years and 04 months; co-accused, namely, Kirandeep Kaur and Jasjit Singh @ Jassi have been released on regular bail and all material witnesses have been examined and that the case is based on circumstantial evidence, the present petition is allowed and petitioner, namely, Ajay Kumar @ Bunty is directed to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court.

20.08.2018	(DAYA CHAUDHARY)
gurpreet	JUDGE
Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No