

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

CRM-M-47537-2017

Date of decision:-31.5.2018

Jiwan Singh @ Deep

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.P.S. Dhaliwal, Advocate
for the petitioner.

Mr.C.L. Pawar, Sr.DAG, Punjab.

H.S. MADAAN, J.

This petition for regular bail has been filed by petitioner –
Jiwan Singh @ Deep – an accused in FIR No.12 dated 9.2.2017, under
Sections 302, 201, 120-B, 34 IPC, registered at Police Station Sadar,
Mansa, District Mansa.

Briefly stated, the prosecution story is that the criminal
machinery in this case was set into motion by complainant Beant Singh
son of Lal Singh, resident of village Sadda Singh Wala, who in the
statement got recorded by him with the police on 9.2.2017, stated that his
brother Jaswant Singh was married with Jaspreet Kaur @ Beant Kaur
daughter of Lakha Singh, resident of village Kallo; that on 5.2.2017 at

about 7:00/8:00 p.m., Jaswant Singh along with Jaspreet Kaur @ Beant Kaur had gone to their fields for irrigating their land; that on the next day when the complainant did not see Jaswant Singh, then he inquired from Jaspreet Kaur @ Beant Kaur, who informed that Jaswant Singh had gone to Bathinda; that in the evening, the complainant received a telephonic call from his aunt from village and came to know that dead body of Jaswant Singh was lying towards the mouth of the canal of village Kotli Kalan near railway crossing; that the dead body of Jaswant Singh was brought by GRP to Civil Hospital, Mansa; that Jaspreet Kaur @ Beant Kaur in the statement got recorded by her with the police stated that Jaswant Singh had gone to Bathinda and after returning from there, he accidentally fell into the canal and died; that dead body of Jaswant Singh was cremated; subsequently, Jaspreet Kaur @ Beant Kaur admitted before the Panchayat and family members that she with the help of Ghudhar Singh @ Sokha, Sukhpal Singh @ Sukha and Jiwan Singh @ Deep Singh (present petitioner) had killed Jaswant Singh by pressing his neck near the motor in the fields and his dead body was thrown in the canal. Therefore, formal FIR was recorded. After registration of the FIR, the case was investigated, during the course of which, the petitioner was arrested. He had filed an application for regular bail in the Court of Sessions, which was declined by learned Additional Sessions Judge, Mansa vide order dated 3.11.2017, as such, he has approached this Court with same request.

Notice of the petition was given to respondent – State and counsel representing the State has put in appearance.

I have heard learned counsel for the parties besides going through the record.

Learned counsel for the petitioner has argued that the petitioner is not named in the FIR and his name cropped up in disclosure statement of a co-accused, which is not of much value, therefore, concession of regular bail be granted to the petitioner.

Whereas learned State counsel has contended that when confronted by Gram Panchayat and family members, widow of the deceased had stated that she in conspiracy with several persons including the present petitioner had murdered Jaswant Singh and then thrown his dead body in the canal.

After hearing learned counsel for the parties, I find that merely for the reason that the petitioner is not named in the FIR does not make out a case for grant of regular bail to him, since the FIR is not a substantive piece of evidence and its only purpose is to set the criminal machinery in motion. FIR is often lodged in hurry and it may not contain the minute and precise details of the incident. The FIR can be got registered by a person, who may not be an eye-witness of the incident. It is only during investigation of the case that police can come to know about the culprit/criminal, who had committed the crime. Merely for the reason that accused is not named in the FIR does not result in causing any dent in the prosecution story. It is stated that the trial against the petitioner is going on and out of 19 prosecution witnesses, 5 have been examined. The guilt of the accused shall be determined during the trial. At this stage, if granted bail, there is reasonable possibility of petitioner absconding or

even trying to tamper with the prosecution evidence.

Therefore, finding no merits in the petition, the same stands dismissed.

31.5.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No