

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

CRM-M-49057-2018 (O&M)

Date of Decision:-1.12.2018

Jaswant Singh @ Jassa

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Ramesh Hooda, Advocate for the petitioner.

Ms. Ruchika Sabherwal, Assistant Advocate General, Punjab.

GURVINDER SINGH GILL, J.(Oral)

By way of filing this petition, the petitioner Jaswant Singh @ Jassa seeks grant of regular bail in respect of a case registered vide FIR No.191 dated 1.10.2017, Police Station Bhawanigarh, Sangrur, which was initially registered under Sections 279, 304-A of Indian Penal Code, 1860 and in which offences under Sections 302, 201, 34/120-B IPC were added lateron.

Mr. Preetinder Singh Ahluwalia, Advocate has appeared on behalf of the complainant and has filed Vakalatnama, which is taken on record.

The FIR was lodged at the instance of Sher Singh wherein it has been alleged that on the day of occurrence when he as well as his son Jodhbir Singh were returning home on their motorcycles and while his son was proceeding ahead and he was following him, one unknown vehicle came

from behind and hit against the motorcycle of his son Jodhbir Singh as a result of which he fell down and sustained injuries and ultimately expired. Subsequently, on 16.3.2018 i.e. after about 5 months, the complainant moved an application to the police alleging therein that in fact his son had been killed by Sukhwinder Singh, Mandeep Singh and Jaswant Singh and his body and the motorcycle had been thrown on the road. Thereafter, on 1.5.2018, the complainant made a supplementary statement to a similar effect naming both the petitioners and Jaswant Singh who had killed his son and had thrown his body as well as his motorcycle on the road. Pursuant to the aforesaid supplementary statement, offences under Sections 302, 201 read with Section 34 IPC were added and the petitioners were arrested on 4.5.2018.

Learned counsel for the petitioner has submitted that the offences under Sections 302, 201 read with Section 34 IPC have been added as an after-thought and simply in order to harass and pressurize the petitioner and that perusal of the FIR itself shows that it is a case of death due to vehicular accident and is not a murder as is now being alleged by the complainant.

The learned State counsel has submitted that in fact immediately after the occurrence, the complainant was in a state of shock and the FIR was got registered by relatives of the complainant and his thumb impression was obtained and that it is in fact a case of murder. The learned State counsel has, however, informed that out of 30 cited witnesses none has been examined so far.

The learned counsel for the complainant, while opposing the bail, has submitted that infact the investigation of the case had later on been

entrusted to Central Intelligence Agency (CIA) and during the course of which it transpired that infact it is a case of 'honour killing'. He has submitted that during investigation the mobile phone belonging to the deceased, which had not been found at the spot, was recovered from one Bharpur Singh who during interrogation disclosed that he had purchased the same from Kuldeep Singh, who had picked up the same from the spot. The learned counsel for the complainant has further submitted that infact there are audio and video recordings pertaining to extra judicial confession made by the accused and that during the course of investigation it had surfaced that it is the petitioner, who is the main accused and that in these circumstances he cannot claim the concession of bail on grounds of parity on account of his co-accused Sukhwinder Singh @ Kala and Mandeep Singh @ Manni having been granted bail.

Having considered the rival submission addressed before this Court and bearing in mind the fact that the present case is a case based solely on circumstantial evidence, wherein initially the FIR was lodged in respect of offences under Sections 279 and 304-A of Indian Penal Code, 1860, which has later been converted into an FIR under Section 302 of Indian Penal Code, 1860 and also the fact that as on date out of 30 cited witnesses none has been examined so far and also that the trial in its normal course is likely to take some time for its conclusion, in my opinion, no useful purpose would be served by further detaining the petitioner behind bars. The petition, as such, is accepted. The petitioner Jaswant Singh @ Jassa is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

It is, however, clarified that none of the observations made above shall be taken to be an expression on merits of the main case.

1.12.2018

pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No