

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-8020-2019 (O&M)
Date of Decision:-10.9.2019

Mithlesh and another ... Petitioners

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Bhrigu Dutt Sharma, Advocate for the petitioners.
Mr. Kirat Singh Sidhu, Deputy Advocate General, Punjab.

GURVINDER SINGH GILL, J.(Oral)

1. The petitioners have approached this Court seeking grant of regular bail in respect of a case registered vide FIR No.143 dated 17.9.2017 at Police Station Lambran, District Jalandhar under Sections 302, 376, 201 and 34 of Indian Penal Code.
2. The FIR came to be lodged at the instance of Dalip Dass Sharma, son of deceased, wherein it has been alleged that on 16.9.2017, he had arranged a get-together on the occasion of birthday of his son and had invited guests from his brotherhood living in nearby villages. The said party continued till 12:30 A.M. (night time). After the guests had left, the complainant realized that his mother Girja Devi was missing. However, the complainant and his brother thought that their mother had gone out to sleep with land lady of the house. However, since Girja Devi could not be found even on the next day,

they went to look out for her and located her dead-body lying near '*bajra fields*'. It is alleged that while the shirt of Girja Devi was found torn, her *salwar* and underwear were found missing and there were wounds with some sharp edged weapon on her face and there were other 'blunt injuries' as well. The complainant suspected that Chote Lal Dass, in an inebriated condition, had committed rape upon her mother and had murdered her.

3. The learned counsel for the petitioners has submitted that the present case is a case based totally on circumstantial evidence and that the prosecution is mainly relying upon evidence in the shape of 'last seen' evidence, wherein it was found that one Swaran Singh had seen the petitioners in the company of deceased, while they were quarreling with her and on 'extra judicial confession' allegedly made by accused before one Jarnail Singh.
4. The learned counsel has submitted that both the aforesaid witnesses have, however, been examined during the proceedings of the trial but none of them has supported the case of the prosecution and that in these circumstances, the petitioners deserve the concession of bail.
5. Opposing the petition, the learned State counsel has submitted that since the involvement of the petitioners is evident from the extra judicial confession made by the accused including the petitioners, no case for grant of bail is made out.
6. I have considered rival submissions addressed before this Court.
7. Undisputedly, the present case is a case of blind murder based on circumstantial evidence. However, neither Swaran Singh, who was witnesses of the 'last seen evidence', has supported the case of prosecution as he resiled from his earlier statement nor Jarnail Singh, before whom the

accused had allegedly made extra judicial confession, has supported the case of prosecution as would be evident from their statements annexed with the petition as Annexures P-2 and P-3. The petitioners, in any case, have been behind bars since the last about two years. It has been informed by learned State counsel that as on date only 7 out of 27 prosecution witnesses have been examined.

8. Keeping in view the fact that two of the prime witnesses have not supported the case of prosecution and the trial in its normal course is not likely to be immediately concluded as only 7 out of 27 cited prosecution witnesses have been examined so far despite the fact that petitioners have been in custody since last two years, further detention of the petitioners would not serve any useful purpose. The petition, as such, is accepted and the petitioners are ordered to be released on bail subject to their furnishing bail bonds/surety bonds to the satisfaction of trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.
9. The present petition stands accepted accordingly.

10.9.2019

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No