

219 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-23715-2019 (O&M)

Date of Decision : October 14, 2019

Gurnam Singh

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Sanjiv Gupta, Advocate and
 Mr. R.P.S. Cheema, Advocate
 for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

This is the first petition filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.91 dated 7.7.2018 under Sections 302/201/34 IPC registered at Police Station Bassi Pathana, District Fatehgarh Sahib.

Counsel for the petitioner submits that as per the allegations in the FIR registered on the statement of Satnam Singh, it is stated that a day prior to the registration of the FIR, he was drinking alcohol in R.R. Ahaata and Satwinder Singh, resident of village Mehra, driver of tempo, was also sitting on the adjoining table and under the influence of liquor was talking to his companion that Mehmool Khatoon, wife of deceased Mohammad Abdul is residing in his village for the last about eight years and in the month of September/October, 2010, her husband came to the village and Gurnam Singh engaged him in talks and both brothers, i.e. Gurnam Singh and Satnam Singh, along with Mehmool Khatoon, after offering drinks to Mohammad Abdul, gave him beatings and, thereafter,

Gurnam Singh caught hold of his hands and legs and Mehmool Khatoon put her right foot on his neck and pressed hard, due to that he died. Counsel for the petitioner has further argued that as per the allegations in the FIR, the incident pertains to September/October, 2010, whereas the FIR was registered on 7.7.2018, i.e. after a period of about eight years and there was no occasion for the petitioner to make any such, extra judicial confession before complainant, i.e. Satnam Singh. He has further argued that the entire prosecution evidence has been recorded and as per the statement of PW4 Satnam Singh/complainant, nothing has come against the petitioner as this witness stated that he do not know the accused persons and had seen them for the first time in the Court and he has never heard any conversation at any point of time. This witness was declared hostile and during cross-examination, this witness has even denied that he made any statement to the police in this regard.

Counsel for the petitioner has further relied upon the statement of PW9 Guchi Lal, brother of deceased Mohammad Abdul, who has also not supported the prosecution version and has denied that he has made any statement against accused persons to the police and in cross-examination conducted by the Public Prosecutor, nothing came against the petitioner. Counsel for the petitioner has further relied upon the statement of PW3 Kuldeep Singh, a witness who has allegedly brought the accused persons to the Police Station. This witness had also stated that he do not know the accused person Satwinder Singh and petitioner Gurnam Singh and he never produced them before the police. He has further relied upon the statement of PW2 Kesar Pal Singh, Assistant Transport Officer, who in his cross-examination has stated that as per Ex.P3, the date of date of purchase of auto-rickshaw (three

wheeler) is 25.10.2012 and the vehicle was registered on 7.12.2012. Counsel for the petitioner has further argued that the prosecution version falls flat as this vehicle which was purchased in the year 2012 could be used for the purpose of transporting the dead body in the year 2010.

Learned State counsel, on instructions from ASI Avtar Singh has not disputed the factual position on the basis of the statement of the aforesaid prosecution witnesses and submits that the entire prosecution evidence is concluded. He has further stated that the petitioner is in custody since 8.7.2019.

Without commenting anything on the merits of the case, considering the aforementioned submissions made by the counsel for the petitioner, this 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/Duty Magistrate/Illaq Magistrate, concerned.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

October 14, 2019

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Whether speaking/reasoned : YES / NO
Whether reportable : YES / NO