

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

CRM-M No.26193 of 2019
DATE OF DECISION : 6th SEPTEMBER, 2019

Sukha

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

* * * *

Present : Mr. Ranbir Singh Sakhon, Advocate for the petitioner.

Ms. Amarjit Kaur Khurana, DAG, Punjab.

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RAJBIR SEHRAWAT, J. (Oral)

The present petition has been filed by the petitioner under Section 439 Cr.P.C. for grant of bail pending trial in case FIR No.96 dated 30.08.2018 registered under Section 364 IPC (Sections 302, 379-B, 34 & 201 IPC have been added later on) at Police Station Kulgari, District Ferozepur.

It is contended by counsel for the petitioner that the petitioner has been wrongly involved in this case. Otherwise the petitioner has no concern with the alleged crime at all. Still further, it is submitted that there was delay of two days in lodging the FIR and even the FIR was lodged against unknown persons and was lodged only qua son of the complainant going missing. However, after about two months the statement of one Swaran Singh was recorded by the police in attempt to drag the name of the petitioner into the crime. Even as per that statement said Swaran Singh is alleged to have stated that he had heard the petitioner and his co-accused discussing that they had already killed

the son of the complainant. However, this is only a concocted hear-say version of the said Swaran Singh. The petitioner never gathered with his other co-accused at the said place, as alleged by Swaran Singh. It is also contended that even during investigation the police have not been able to collect any evidence to connect the petitioner to the alleged crime, except the unfounded statement of above said Swaran Singh. Therefore, there is no admissible evidence on the file of the prosecution or the court to connect the petitioner to the crime alleged against him.

On the other hand, counsel for the State, being instructed by the police official, submits that the name of the petitioner has come in the statement of Swaran Singh who had heard the petitioner and his co-accused, talking about having committed murder of the deceased. Still further it is submitted that, one of the co-accused-Sonu, has also suffered a disclosure statement that he and the present petitioner, along with others had committed murder of the deceased. Therefore, the culpability of the petitioner qua the crime, stands fully explained. However, it is not disputed that except these two statements of PW-Swaran Singh and co-accused Sonu, there is nothing on record to connect the petitioner to the alleged crime.

As response to this argument of counsel for the State, learned counsel for the petitioner submits that; so far as the statement of Swaran Singh is concerned, as submitted above, he has deposed only about hear-say; as perceived by him. Even the co-accused Sonu has made the alleged disclosure statement while in police custody. Therefore, none of the statements, relied upon by the prosecution, are

admissible piece of evidence. Still further, it is submitted that by any means, even these two statements are not sufficient to hold the petitioner as guilty of the crime alleged against him.

In view the above, but without expressing any further opinion on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail pending trial subject to his furnishing bail bonds/surety to the satisfaction of the Trial Court/Duty Magistrate, concerned.

6TH SEPTEMBER, 2019
‘raj’

(RAJBIR SEHRAWAT)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>	<i>No</i>
<i>Whether Reportable:</i>	<i>Yes</i>	<i>No</i>