

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

CRM-M-9341-2020 (O&M)

Date of Decision: September 15, 2020

Iqbal Singh @ Goldy

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. A.P.S.Sandhu, Advocate,
for the petitioner.

Mr. Sidakmeet Sandhu, AAG, Punjab.

MANOJ BAJAJ, J. (Oral)

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail, pending trial in case FIR No.231 dated 18.11.2018, under Sections 302, 201, 120-B read with Section 34 IPC, registered at Police Station, Lopoke, District Amritsar Rural. The petitioner is in custody since his arrest on 20.11.2018.

The above FIR was registered on the statement of complainant-Sitara Singh, wherein it was alleged that he retired from army and was working as security guard at Ram Tirth Mandir. He has two brothers, namely, Baj Singh and Mukhtiar Singh and latter was married to Mandeep Kaur around seven years back and from the said wedlock, two children, namely, Harman Singh and Harsimranpreet Kaur were born. Mukhtiar Singh went to Dubai for about twelve years and came back on 18.10.2018. On 29.10.2018, Mukhtiar Singh and his uncle's son Chanan Singh were working in the fields and at about 12.00 noon, he went to the field and saw that Mukhtiar Singh was vomiting. On asking, he disclosed that due to

taking meal at odd hours, he was vomiting. Thereafter, his brother Mukhtiar Singh came back at about 3.00 p.m. and went to sleep and at about 1.00 a.m. at night, his sister-in-law Mandeep Kaur started crying that Mukhtiar Singh has been electrocuted. All the family members came out and saw that Mukhtiar Singh was lying near the window of the room, where the electricity wire with joint was passing, but Mukhtiar Singh was lying far away from the joint. His family saw that Mukhtiar Singh had already died and his right feet was burnt. On 30.10.2018, his last rites were performed. On 03.11.2018, complainant took the mobile of his brother from Mandeep Kaur in order to call someone and found a file containing audio recording and on hearing the recording dated 29.10.2018, he came to know that Mukhtiar Singh was asking his wife that what she had administered to him due to which he was vomiting. From the mobile recording, complainant came to know that Mandeep Kaur hatched a criminal conspiracy of murder of Mukhtiar Singh with paramour Iqbal Singh. On these broad allegations, the above FIR was registered.

Learned counsel for the petitioner contends that the prosecution case hinges upon circumstantial evidence and the FIR was lodged after a long delay. It is pointed out that victim Mukhtiar Singh died on 29.10.2018 and was cremated on the next day, whereas complainant-Sitara Singh, (brother), suspected the death as homicidal as the wife of the victim was allegedly involved in an illicit relation with Iqbal Singh (petitioner). Learned counsel has submitted that the said suspicion arose on 03.11.2018 when the alleged telephonic recording was noticed, but the complaint was moved by him after fifteen days, i.e. on 18.11.2018. He submits that the petitioner is in custody since his arrest on 20.11.2018 and the trial has not

progressed at all as no prosecution witness has been examined after framing of charges on 19.09.2019. He prays that the petitioner be released on regular bail, during the pendency of the trial.

On the other hand, learned State counsel assisted by ASI Kulbir Singh has opposed the prayer on the ground that the petitioner participated in the crime along with the wife of the victim. According to him, the petitioner suffered an extra-judicial confession before witness, namely, Dayal Singh. He submits that telephonic recording also implicates the petitioner.

At this stage, learned counsel for the petitioner submits that the victim was cremated on 30.10.2018 and there is no post mortem report indicating the homicidal death of the victim. According to him, the evidence collected by the prosecution is comparatively weak in nature, therefore, further custody of the petitioner may not be necessary, particularly when the material witnesses are close relatives of the victim and there is no likelihood of their being won over.

Considering the above background, custody of the petitioner and the fact that the trial is likely to consume considerable time to conclude as the country continues to be in the throes of global pandemic, namely, COVID-19 and the State Government and District Administration have also imposed various restrictions to curb its spread, this Court does not find any reason to decline the prayer. The petitioner after his arrest on 20.11.2018, is presently confined in judicial custody, therefore, his further detention behind the bars may not be justified.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail

subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate, Amritsar.

The petition is allowed.

September 15, 2020
ramesh

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable:	Yes/No