

CRM-M-16461 of 2020

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

CRM-M-16461 of 2020 (O&M)

Date of decision:26.08.2020

Makhan Ram @ Makhan Baba

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Swarn Tiwana, Advocate for the petitioner.

Mr. Luvinder Sofat, AAG, Punjab for the State.

Mr. Laghuinder Singh Sekhon, Advocate for the complainant.

SUVIR SEHGAL J.

The hearing of this case has been taken up through video conferencing on account of outbreak of corona virus (Covid-19) pandemic.

Petitioner, namely, Makhan Ram @ Makhan Baba son of Noora Ram, has approached this Court under Section 439 Cr.P.C for grant of regular bail in FIR No.95 dated 10.09.2018 registered under Sections 302, 34, 109, 120-B of Indian Penal Code, 1860 (hereinafter referred to as “IPC”) at Police Station Sadar Rampura, District Bathinda.

As per the version of the prosecution, FIR under Sections 109/120-B was registered on the statement of Kiranpal Kaur, who is the wife of Harvinder Singh, deceased. She stated that on 09.09.2018, her husband came back home after consuming liquor at about 7.00 p.m. Around 10.30 p.m., three persons not known to her came to meet her husband. After sometime, her husband alongwith said persons went out, after telling her

that they are going for consuming liquor. Almost an hour later, her husband came back with the said persons in a white car. Upon coming inside, her husband told her to take their son upstairs as the said three persons were to stay with him for the night. Her husband had filed his candidature for the upcoming Zila Parishad elections as a candidate for a political party. The petitioner went upstairs with her son and in the morning when she came down, she saw the blood stained dead body of her husband on the bed. Upon her raising an alarm, her brother-in-law, Jaswinder Singh, who stays with them, Dharam Singh, Sarpanch and some neighbors came and thereafter, the police was informed and the FIR was registered. On 13.09.2018, DDR No.33 was registered on the statement of Jaswinder Singh and the petitioner alongwith 04 others were nominated as accused and the offences under Sections 302 and 34, IPC were added. The petitioner was arrested on 13.09.2018.

Counsel for the petitioner has argued that the petitioner is innocent and has no connection with the accused Kiranpal Kaur or the murder of her husband, who was done to death by some unknown persons. The FIR regarding the death of Harwinder Singh was lodged on 10.09.2018 by his wife but the petitioner alongwith other co-accused have been falsely nominated on the statement of Jaswinder Singh. It has been argued that there is a delay of 03 days in the recording of statement of Jaswinder Singh. According to the counsel, the final report was presented on 07.12.2018 and the charge against the petitioner under Sections 302/120-B, IPC was framed on 30.01.2019. As per his instructions, the trial is progressing at a very slow

pace, inasmuch as the statement of last prosecution witness was recorded 22.10.2019. It has been contended by him that Jaswinder Singh, who was one of the material persons has been given up by the prosecution for which there is no explanation. Counsel submits that the conspiracy as alleged by the prosecution is unreliable and the entire case against the petitioner is based on circumstantial evidence.

Refuting his arguments, learned State counsel assisted by counsel for the complainant has argued that the star prosecution witness is 15 years old son of the deceased, Sharandeep Singh, PW-1. Reference has been made to his statement, which is on the record, to show that he has described the role of his mother, Kiranpal Kaur and the petitioner in the incident in detail and has supported the prosecution case. Besides him, two other witnesses, namely, Balwinder Singh, PW2 and Dharam Singh, PW3 have also supported the prosecution version. It has been argued that Dharam Singh, former member of the Panchayat and a neighbour, has in his testimony stated that Kiranpal Kaur allegedly was in a relationship with one Sandeep Singh and they were caught red handed by the deceased. Even though she apologized, yet she continued with the extra-marital affair and the deceased confided in this witness that she was instrumental in the threats being received by him. Upon instructions from ASI Manjinder Singh, State counsel has argued that out of 20 prosecution witnesses, 08 have been examined and ninth witness was given up during the course of proceedings before the trial Court on 24.02.2020 and that it is wrong to allege that the trial is not progressing. According to him, the evidence of the

remaining witnesses is yet to be recorded. He filed the custody certificate dated 05.08.2020, which is taken on record.

I have considered the rival submissions.

The petitioner allegedly in conspiracy with the wife of Harwinder Singh committed his murder in cold blood. The allegations against the petitioner are of a very serious nature. It has been alleged that wife of deceased played a prominent role and assisted the co-accused, namely, Makhan Baba (present petitioner), Chamkaur Singh and Jaimal Singh, in committing the murder of her husband. The prosecution case is largely dependent upon the evidence of Sharandeep Singh, 15 years old son of the deceased, who is staying with his paternal grandparents. This is not the stage to comment upon the evidence led by the prosecution or upon the alleged complicity of the petitioner in the crime.

Considering the gravity of the offence and the crucial stage of trial, this Court is of the opinion that that petitioner is not entitled to be released on bail pending trial.

The petition is, accordingly, dismissed.

It is clarified that any observation made hereinabove shall not be construed as an expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

August 26, 2020

savita

Whether Speaking/Reasoned

Yes

Whether Reportable

Yes