

In virtual Court

CRM-M-17333-2020

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-17333-2020 (O&M)
Date of decision: 17.12.2020

Joga Singh

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. G.S. Bedi, Advocate
for the petitioner.

Mr. Deepak Kumar Grewal, DAG, Haryana.

Mr. S.K. Aggarwal, Advocate
for the complainant.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of regular bail in FIR No.454 dated 11.12.2018 under Sections 302/34 IPC (originally under Sections 307/34/341 IPC), registered at Police Station Ambala City, District Ambala.

Learned counsel for the petitioner submits that as per allegations in the FIR, registered at the instance of Ranjeet Kaur wife of deceased Saroop Singh, it is stated that they are having a residential house along with G.T. Road, where they have engaged the services of a Mason for constructing the house. It is further stated that one Surender Pal has taken possession of their joint plot and since the plot was transferred in her name, said Surender Pal was having a

grudge on that account. On 11.12.2018, when her husband just climbed the road along with tractor, her daughter Darshan Deep Kaur was tying the buffaloes along the main gate and Surender Pal and his son raised a lalkara. Upon which, her husband stopped the tractor and Surender Pal was carrying an axe in his hands and he made a direct attack on neck of her husband with intention to kill. Son of Surender Pal stayed with him so that Saroop Singh is not saved. When the complainant and her daughter raised voice, Surender Pal along with his axe and Joga Singh ran away from the spot. Thereafter, the injured was taken to hospital and then to GMCH, Sector-32, Chandigarh, where he died.

Learned counsel for the petitioner further submits that the police, after conducting the investigation, found the petitioner to be innocent and later on, the Chief Judicial Magistrate, exercising the powers under Section 190 Cr.P.C., summoned the petitioner vide order dated 04.04.2019. It is further submitted that the petitioner surrendered in June, 2019 and since then, he is in custody. It is also submitted that during the trial, statement of the complainant-PW1 Ranjeet Kaur was recorded and in her statement, she stated that petitioner Joga Singh was exhorting lalkara, whereas Surender Pal had caused fatal injury on neck of her husband. Even statement of her daughter Darshan Deep Kaur has also been recorded. It is further stated that statements of 05 PWs have been recorded and 05 PWs have been given up.

Learned counsel for the petitioner has next submitted that reason for giving up Gurmeet Singh, Mason, who is referred to in the FIR, is that while recording his statement under Section 161 Cr.P.C. on the same day, when the FIR was registered, he has not named the petitioner as the person present at the

spot and it is stated that Surender Pal had caused injury and their neighbour Rajinder Pal Singh took the injured to hospital. It is further submitted that statement of another witness Sukhdeep Kaur, wife of aforesaid Rajinder Pal Singh, who was present at the spot, has also been recorded under Section 161 Cr.P.C., in which she has stated that Surender Pal alone was responsible for the murder. It is also submitted that since there were discrepancies in the statements, these two witnesses were given up by the prosecution.

In pursuance of the earlier order dated 12.10.2020, directing the State to produce the copy of report, on the basis of which the petitioner was kept in column No.2, while submitting the challan, has filed affidavit of DSP, HQ, Ambala along with the report. In para No.7 of this affidavit, following averments are made: -

“That since there was discrepancies between the statement of Darshan Deep Kaur (daughter of deceased) and Gurmeet Singh, therefore, the facts of the case were got verified by the Inspector Ajit Singh, SHO, PS Ambala City and Chander Mohan, IPS, ASP/Ambala. During verification, number of neighbours have been examined by the Inspector Ajit Singh and thereafter, Chander Mohan, IPS, ASP/Ambala and during verification by Chander Mohan, ASP/Ambala PW Sucha Singh son Nasib Singh, Amarnath son of Pari Lal have stated that both the witness at about 07.00 AM on 11.12.2018 were present in the area of New Sabji Mandi, Ambala City and that time the petitioner Joga Singh was also present in Sabji Mandi, Ambala City and the petitioner along with

PW Sucha Singh reached at Manav Chowk Sabji Mandi, Ambala City after loading the vegetables in his TATA Super vehile and Joga Singh received the information through telephone about the commission of crime by his father when he was present in Sabji Mandi, Manav Chowk, Ambala City. During verification, PW Sukhdeep Kaur wife of Rajinder Pal, Chhapinder Singh son of Hajura Singh, Gobind Singh son of Banta Singh all resident of Dera Layapur, Patti Jattan, New Sabji Mandi, GT Road, Ambala City have stated that they had seen the occurrence and at the time of causing injuries by Surinder Pal Singh, the petitioner Joga Singh was not present at the place of occurrence...”

It is thus submitted that the police, on the basis of proper investigation, has found that the petitioner was not present at the spot and has no role to play. It is also submitted that the main witnesses have already been examined and there is no possibility of tempering with the prosecution evidence at this stage, as other witnesses have already been given up.

Learned State counsel, on the basis of affidavit of DSP, HQ, Ambala dated 03.12.2020, has not disputed the factual position as well as findings recorded in the proceeding report (Annexure R-1).

Learned counsel for the complainant has, however, opposed the prayer for bail on the ground that statement of Sukhdeep Kaur was recorded after a period of one month and since the complainant and her daughter were throughout present with the victim in the hospital, there was no reason for them to falsely implicate the petitioner.

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After hearing learned counsel for the parties and without commenting anything on merits of the case, I find it to be a fit case, where the concession of regular bail can be granted to the petitioner at this stage.

Considering the fact that the petitioner is in custody since July, 2019; he was found innocent during the detailed investigation as per affidavit of DSP, HQ, Ambala; he was later on summoned under Section 190 Cr.P.C. due to variation in the statements of witnesses; two of the witnesses, who have stated under Section 161 Cr.P.C. that the petitioner was not present at the spot, have already been given up by the prosecution and also in view of the fact that complainant/eyewitnesses have already been examined and there is no possibility of tempering with the prosecution evidence at this stage, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate, concerned.

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

17.12.2020

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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No