

CRM-M-23675 of 2020 (O&M)

Date of Decision: 23.11.2020

Harbans Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURIPresent: Mr. Narinder S. Lucky, Advocate
for the petitioner.

Ms. Jaspreet Kaur, AAG, Punjab.

Through Video Conferencing**JASGURPREET SINGH PURI, J.(ORAL)****CRM-27763-2020**

This is an application for placing on record (Annexure P-3),
evidence of PW-3, Mandeep Singh.

For the reasons mentioned in the application, the same is
allowed subject to all just exceptions. Annexure P-3 is taken on record.

Application is disposed of.

CRM-M-23675 of 2020

The present petition has been filed under Section 439 of
Cr.P.C. for grant of 'regular bail' to the petitioner in FIR No.02, dated
05.01.2019, under Sections 302, 120-B, 201 and 34 IPC, 1860, registered at
Police Station Sherpur, District Sangrur.

The facts which emanates from the present case are that the
aforesaid FIR was lodged on the basis of complaint of one Leela Singh son

of Bhajan Singh, who stated that his son Kuldeep Singh was missing since 02.01.2019, and thereafter his dead body has been recovered on 03.01.2019. It is further stated in the FIR that one Harbans Singh (petitioner) was visiting in the house of the deceased Kuldeep Singh for the last 10 days and has an illicit relations with his daughter-in-law namely, Mandeep Kaur. He used to stop his daughter-in-law and she used to reprimand.

On 02.01.2019, Kuldeep Singh went away from his house. They tried to search him at their own level. On 03.01.2019, the complainant came to know that the dead body of his son Kuldeep Singh has been recovered from the drain of village Tibba, Police Station Sherpur and that the dead body was identified by his other sons Mandeep Singh and Kesar Singh. Thereafter, his son namely, Mandeep Singh told him that on 02.01.2019, in the evening Harbans Singh (petitioner), Harpreet Singh, Kala Singh had taken away Kuldeep Singh (deceased) in their Maruti Car and in the morning, he has overheard his daughter-in-law was talking with Harbans Singh (petitioner) that no one has come to know about the death of Kuldeep Singh by strangulation and that there is no fear and they are free now.

Learned counsel for the petitioner has submitted that the FIR was based upon hearsay and that the petitioner was not involved in the death of Kuldeep Singh. He further submitted that even during trial, the aforesaid Mandeep Singh, who is the son of the complainant Leela Singh has deposed as PW-3 that he does not know how his brother Kuldeep Singh has died. His signatures were taken by the police on blank papers and he did not get his statement recorded before the police. He further stated in his cross-examination it is neither a fact nor stated before the police that he

informed his father that on 02.01.2019, Harbans Singh (petitioner), Harpreet Singh and Kala Singh had taken away Kuldeep Singh in their Maruti Car. Learned counsel for the petitioner submitted that in view of the statement made by the aforesaid Mandeep Singh, on the basis of which the complainant Leela Singh has given the complaint to the police, the entire prosecution story fails.

Learned counsel for the petitioner has also submitted that the other co-accused namely, Harpreet Singh and Kala Singh has already been granted bail in CRM-M-46593 of 2019, passed by this Court (coordinate bench) on 09.10.2020 on the same grounds. He further submitted that the petitioner is in custody since 05.01.2019 and out of the total 21 witnesses, 20 witnesses have already been examined and, therefore, no useful purpose would be served by keeping the petitioner behind the bars for a long time as the trial has not made any progress due to the prevailing pandemic Covid-19. He further submits that the petitioner is not involved in any other case and, therefore, is entitled for grant of concession of regular bail.

On the other hand, learned State counsel has submitted that it is not in dispute that the petitioner is in custody since 05.01.2019 and all the material witnesses have already been examined. She has also not disputed that PW-3, Mandeep Singh has deposed before the learned trial Court. It is also not disputed that the petitioner is not involved in any other case. However, she has opposed the bail on the ground that the matter is serious in nature and therefore has prayed for dismissal of the present bail petition.

I have heard the learned counsel for the parties and have perused the record.

The present FIR was lodged by Leela Singh, father of the deceased Kuldeep Singh by stating that he has heard from Mandeep Singh, his other son that the deceased was taken away by Harbans Singh (petitioner) and he has overheard the talks between Harbans Singh and their daughter-in-law, who was stating that nobody has come to know about the death of the deceased Kuldeep Singh, by strangulation and that there is no fear and they are free now. However, during the course of trial, PW-3, Mandeep Singh, who is another son of the complainant, Leela Singh on whose basis, the FIR was lodged has informed that the police has taken forcible signatures from him. During the trial, all the material witnesses have already been examined and the petitioner is in custody since 05.01.2019. It is not the case of the State that in case, the petitioner is released on bail, that he may influence any witness or tamper with any evidence.

Therefore, considering the totality of the present case, I deem it a fit and appropriate case to admit the petitioner on bail. Consequently, the present petition is allowed. The petitioner shall be released on bail on his furnishing adequate bail/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

It is made clear that the aforesaid observations would not mean anything on the merits of the case as the same are only for the purpose of deciding the present bail petition.

(JASGURPREET SINGH PURI)
JUDGE

November 23, 2020

Manpreet

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No