

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

209 - CRM-M-24107-2020

Date of Decision: 01.10.2020

Gurcharan Singh

... Petitioner

VS.

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE GIRISH AGNIHOTRI

Present: Mr. GBS Dhillon, Advocate for the petitioner

Mr. HS Sitta, AAG Punjab

Mr. Ravi Malhotra, Advocate for the complainant

GIRISH AGNIHOTRI, J. (Oral)

The matter has been taken up through video conferencing on account of lockdown due to outbreak of COVID-19 pandemic.

The petitioner Gurcharan Singh aged 33 years has filed the present petition *inter alia* with a prayer for grant of regular bail in case FIR No.88 dated 09.07.2019 under Sections 302/307 IPC registered at PS Meharban, District Ludhiana.

Learned counsel for the petitioner based upon the pleadings submits that in fact the allegations in the FIR are false and concocted. Secondly, he submits that there is a delay in lodging of the FIR. Thirdly, he submits that there are contradictions in the statement made by the complainant. He also placed reliance upon the post-mortem report (P1) to show that in fact the complainant has changed the version.

Learned State counsel, on instructions from SI Harshpal Singh, submits that the investigation is complete. The challan has been presented.

There are a total of 25 witnesses and none have been examined till date.

Learned counsel for the complainant submits that the petitioner is not entitled to be granted bail. He submits that there is threat even to the complainant from the petitioner.

Faced with this, learned counsel for the petitioner submits that firstly a perusal of the FIR would show that the mother of the complainant had earlier performed marriage and from the said wedlock, Gurpreet Kaur (aged 23 years) and Princedeeep Singh (21 years) had born. He then submits that from the second marriage of the complainant's mother with Kulwinder Singh, the complainant had born but his father Kulwinder had died and therefore the mother of the complainant had performed another marriage with the petitioner Gurcharan Singh. He submits that one son Akamjit Singh aged 6 years was born from the third marriage. By making reference to the above, learned counsel submits that the petitioner has to take care of 6 year old son and he is the only bread earner. Secondly, it is submitted that the complainant had in fact lodged the complaint with an ulterior motive as he wanted to grab the property of the petitioner.

Learned counsel for the petitioner submits that in order to show his *bona fide*, the petitioner and his family members would give an undertaking that the petitioner would not involve himself in any other case after today. They would deposit original property papers of a plot worth Rs.18 lakhs with the trial Court which shall remain as security during the trial. They would further give an undertaking that they would not create any encumbrance or sell the said property during trial. In the undertaking, it will also be incorporated that in case the petitioner is found involved in any other case and is found guilty, the property can be confiscated and the amount can be forfeited.

In addition to above, counsel further submits that the petitioner and his family members would pay Rs.5000/- per month as interim maintenance to the complainant who is in fact step-son of the petitioner.

Counsel for the petitioner then submits that due to the present COVID-19 situation, detention of the petitioner in jail would be dangerous to his life and also the fact that trial is likely to take some time, the petitioner may be granted concession of regular bail.

In view of the facts noticed above, the present situation due to COVID-19 and the fact that trial is likely to take some time, this Court deems it appropriate to direct release of the petitioner on regular bail to the satisfaction of Chief Judicial Magistrate/Duty Magistrate concerned, subject to his furnishing bail bonds/surety bonds.

In view of the peculiar circumstances as noticed above, in addition to bail bonds/additional surety which the trial court may further require the petitioner to furnish as it deems appropriate, in pursuance to the offer made by his counsel, the petitioner, within one month from date of his release, would give an undertaking that the petitioner would not involve himself in any other case after today. He will also undertake to deposit original property papers of a plot worth Rs.18 lakhs with the trial Court/Duty Magistrate with a further undertaking not to create any encumbrance or sell the said property during trial. In the undertaking, it will also be incorporated that in case the petitioner is found involved in any other case and is found guilty, the property shall be confiscated and the amount shall be liable to be forfeited and the same be deposited in the Government Treasury. As offered by his counsel, the petitioner would pay Rs.5000/- per month as interim maintenance to the complainant who is in fact step-son of the petitioner. The same shall be without prejudice to defence of the

It is made clear that the offer made by learned counsel for the petitioner of Rs.5000/- would only remain as interim maintenance subject to any further orders altering the amount as aforementioned, if any, passed by the competent Court deciding the issue of maintenance on the application/petition of the complainant's son.

The petitioner is free to utilize the property on rent and will not sell or create any third party rights.

However, it is made clear that anything observed herein shall not be construed as an expression on merits of the case.

The petition stands disposed of accordingly.

01.10.2020

vishal shonkar

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

(Girish Agnihotri)
Judge

Yes/No
Yes/No