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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.28728 of 2020 (O&M)
Decided on: 17.11.2020

Gurdeep Singh

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Gazi Mohd. Umair, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.57 dated 03.05.2018, for offence punishable under Sections 304-A, 427 of the Indian Penal Code, 1860 (in short 'IPC') (Sections 302, 34, 201 IPC added later) registered at Police Station Lehra, District Sangrur.

Counsel for the petitioner has relied upon the order dated 09.07.2019 passed in CRM-M No.27904 of 2019, vide which the co-accused of the petitioner namely Satgur Singh, was granted the concession of regular bail, by passing the following order:-

“Learned counsel for the petitioner submits that the petitioner is in judicial custody since 07.06.2018 and all the material witnesses have already been examined.

Learned counsel for the petitioner further submits that the FIR was initially registered under Section 304-A IPC with the allegations of some road side accident and on suspicion of some mishappening with deceased

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Amandeep Singh @ Amar Singh. Thereafter, after four days, the police has recorded the supplementary statement of the complainant to the effect that his relative Jaswinder Singh informed him that he had seen the deceased in the company of petitioner and co-accused Gurdeep Singh and then he went away and one Gurpreet Kaur is an eyewitness to the same.

Learned counsel for the petitioner has referred to the statement of Gurpreet Kaur, who appeared as PW-2, to submit that this witness has not supported the prosecution version and she was declared hostile and despite the cross-examination by the Public Prosecutor, she has not supported the prosecution version. Learned counsel for the petitioner further submits that in reply to certain Court queries regarding the incident, this witness replied in negative.

Learned counsel for the petitioner further referred to the statement of PW-1 Shonki Bann, who has informed the police that he had seen one person lying on the ground and a motorcycle was standing nearby him and on his statement, the police had visited the place of occurrence.

Learned counsel for the petitioner has further referred to the statement of the complainant, who appeared as PW-4, in which, he has specifically stated that on 07.05.2018, his relative Jaswinder Singh informed him that he had seen his son/deceased Amandeep Singh along with three other persons, out of whom, one was having an axe and one person was having a stick. This witness further stated that Jaswinder Singh told him that deceased Amandeep Singh asked him (Jaswinder Singh) to go away as they will settle their dispute and thereafter, Jaswinder Singh went away from there.

Learned counsel has further referred to the statement of PW-6 Jaswinder Singh, wherein, he has stated that he had seen deceased Amandeep Singh in the

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company of the petitioner and Gurdeep Singh, who were carrying axe and stick, and thereafter, he had seen that the petitioner caught hold of Amandeep Singh from his shirt near the neck and Gurdeep Singh gave an axe blow on the head of Amandeep Singh.

Learned counsel further submits that when the aforesaid witness was confronted with the statement recorded under Section 161 Cr.P.C. to prove that he has made substantive improvements by posing himself as an eyewitness though neither the complainant had stated in his deposition as PW-4 that Jaswinder Singh is an eyewitness nor in the statement recorded under Section 161 Cr.P.C., he has stated himself to be an eyewitness to any such incident of causing injury to deceased Amandeep Singh, whereas, he has specifically stated that he has only seen Amandeep Singh in the company of two persons and thereafter, Amandeep Singh asked him to go away from that place.

Learned counsel for the petitioner has further referred to the statement of PW-3 HC Rabhbir Singh, wherein, he has only stated that it was a case of road side accident and further referred to the statement of PW-5 Dr. Assem Mehta, MO, Civil Hospital Nabha, to submit that as per the postmortem report all, the injuries were either shown as lacerated wounds or abrasions and none of the injuries was reported to be incised wound which might have been caused by a sharp edged weapon like an axe and in cross-examination this witness stated that possibility of the injuries having been suffered in a road side accident cannot be ruled out.

Learned counsel for the petitioner further submits that even as per the statement of Jaswinder Singh, the only allegation against the petitioner is that he had caught hold of the deceased, whereas the motive is attributed to co-

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accused Gurdeep Singh that he was having an illicit relationship with the sister-in-law (Bhabhi) of Gurdeep Singh and no such motive is attributed to the petitioner.

Learned counsel for the petitioner lastly submits that even no recovery was effected from the petitioner.

Learned State counsel, on instructions from the Investigating Officer, could not dispute the factual position.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the aforesaid submissions of learned counsel for the parties, the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.”

Counsel for the petitioner has further submitted that the allegations against the petitioner are identical in nature. It is further submitted that the medical evidence do no support the allegation of the prosecution that the deceased Amandeep Singh @ Amar Singh was given axe blow, which resulted into his death.

Counsel for the petitioner has also submitted that challan stands presented and it will take long time in conclusion of the trial.

Counsel for the State has not disputed the factual position but opposed the prayer for bail. It is further submitted that as per the allegations in the FIR, the petitioner is the main accused, who has caused fatal injuries. It is also argued that there is active participation of the petitioner that in order to take revenge from the deceased, the offence has been committed.

Counsel for the State has further argued that out of 27 PWs, 10 PWs have been examined including the eye-witnesses. It is

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also argued that as per the Custody Certificate, the petitioner is in custody for the last 02 years and 06 months and he is not involved in any other case.

Without commenting anything on merits of the case, considering the fact that the co-accused of the petitioner has already been granted the concession of regular bail; challan stands presented; charges have been framed; the petitioner is not involved in any other case; he is in custody for the last 02 years and 06 months; the custodial interrogation of the petitioner is not required and the conclusion of the trial will take some time, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

17.11.2020

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Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No