

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

**CRM-M No.51939 of 2019
Date of Decision: 08.01.2020**

**Kartik Chauhan
Versus
State of Punjab**

**....Petitioner
.....Respondent**

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. R.S. Cheema, Sr. Advocate with
Mr. V.K. Goyal, Advocate
for the petitioner.

Mr. J.S. Ghumman, DAG, Punjab

RAJ MOHAN SINGH, J.

[1]. Petitioner seeks grant of regular bail in case bearing FIR No.87 dated 18.11.2018 registered under Sections 302, 420, 120-B, 467, 468, 471, 473, 482 IPC and Section 25 of the Arms Act at Police Station Sadar, Rajpura, District Patiala.

[2]. FIR was registered at the instance of Jaspreet Singh @ Monty son of Swaran Singh with the allegations that his father Swaran Singh used to go to the graves of martyrs every month in village Uksi Sainiyan for paying obeisance. On 18.11.2018, father of the complainant drove out for village Uksi Sainiyan in his Swift car of white colour bearing No.CH01BT-4044. Complainant also drove out for paying obeisance in his Verna car bearing No.PB07AK-0011. Both sat in Gurudwara for about

1½ hours and thereafter, the complainant started for Chandigarh in his car and his father remained in the Gurudwara Sahib itself. At about 1 PM, someone informed the complainant that the car of his father was lying in the ditches adjacent to service road, opposite under bridge on the side of Ugana pump. On hearing the said news, the complainant along with his friend Preet Inderpal Singh rushed to the spot and saw that his father was lying dead on the driver seat of the car and blood was oozing out of his head and the clothes were smeared with blood. Three empty cartridges were found in the car. With this background, FIR was registered against unknown persons in respect of murder of father of the complainant.

[3]. Petitioner was implicated on the basis of extra judicial confession recorded by the co-accused Jagtar Singh in front of Surjit Singh (PW1). According to the extra judicial confession, Charan Singh @ Chunnu and the petitioner were allegedly engaged by Jagtar Singh through his brother-in-law Satwinder Singh for committing murder of Swaran Singh. Satwinder Singh, petitioner and Charan Singh @ Chunnu allegedly committed murder of Swaran Singh on 18.11.2018 by firing upon him, when he was returning from village Uksi Sainiyan. Accused Charan Singh @ Chunnu fired at Swaran Singh after alighting from the car which was allegedly driven by the petitioner.

[4]. Court of Sessions while dismissing the regular bail of the petitioner has observed that no doubt, at this stage, there is no direct evidence regarding allegations emerging from extra judicial confession. The extra judicial confession coming out from the statement of PW 1 has a little evidentiary value qua the complicity of the petitioner, but since the prosecution intended to produce other circumstances to connect the petitioner with the crime, therefore, the bail was rejected.

[5]. As per disclosure statement of the petitioner, bag was allegedly recovered from him containing RC of the car of the victim. According to the disclosure statement, Charan Singh @ Chunnu fired upon Swaran Singh. Satwinder Singh @ Satta picked up two small black colour bags from the car of Swaran Singh and remote key of the car along with leather ring and one ring of green colour on which Swaran Singh was written in English. The amount of Rs.15,000/- was found in both the bags and the same was shared by three of the accused persons. Petitioner retained one black colour bag containing RC of the car of Swaran Singh and the same was concealed under the bushes in the grain market, Saha. The aforesaid disclosure statement came to be recorded on 17.12.2018 i.e. about one month from the date of the occurrence.

[6]. Learned Senior Counsel for the petitioner submitted that there was threat perception in the mind of Jagtar Singh that Swaran Singh would get him prosecuted in a land transaction in which Jagtar Singh has given him some forged revenue documents and has received hefty amount. By referring to the statement of PW 1, learned Senior Counsel submitted that Jagtar Singh further told Surjit Singh that the accused have disclosed to him that on seeing the car of Swaran Singh, they started their car and parked the same in front of Subway/underpass. By submitting the aforesaid, learned Senior Counsel submitted that there was no such statement showing the petitioner to be driver of the car. Learned Senior Counsel further relied upon statement of PW1, where it was recorded that Satwinder Singh had picked up the key of the car of Swaran Singh and two bags which were lying in the said car and thereafter, all of them, went to their houses. In view of aforesaid, recovery part became doubtful because the complainant has not stated in the FIR that the documents in question were also missing particularly when disclosure statement was recorded and recovery is allegedly effected after one month of the occurrence. By referring to cash balances available in the accounts of the petitioner, learned Senior Counsel further contended that petitioner is a proprietor of M/s Shri Ganesh

Traders at Saha and is enjoying good financial condition in view of bank balances. The allegation of his being hired for an amount of Rs.3,00,000/- appears to be meaningless. Learned Senior Counsel by referring to the recovery memo of the car further submitted that the same was recovered from Anaj Mandi, Saha when the accused were arrested along with the car. The use of the car as per material collected by the police and the evidence led before the Court is not *prima facie* proved even in view of statement of Hemant Singh recorded by the police under Section 161 Cr.P.C. CCTV cameras installed on the petrol pump in village Ugana has not advanced any case of the prosecution viz-a-viz involvement of the car used in the commission of crime. Petitioner was arrested on 07.12.2018 and the trial would take long time to conclude.

[7]. Learned State counsel has opposed the prayer on the ground that the financial capacity of the petitioner is a subjective thing and it is not necessary to presume anything on the basis of healthy financial condition of the accused petitioner.

[8]. Petitioner has been arrested on the basis of extra judicial confession made by Jagtar Singh in front of Surjit Singh who has been examined as PW 1. In pursuance of disclosure statement, bag containing RC of the car of the victim has been recovered from the petitioner.

[9]. Taking into *prima facie* consideration of the facts and circumstances of the case, particularly in view of the fact that the petitioner has been involved on the basis of extra judicial confession of Jagtar Singh, at this stage, without meaning anything on merits of the case, it would be just and appropriate to release the petitioner on regular bail subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court.

[10]. Nothing observed hereinabove, shall be construed to be an opinion on merits of the case.

08.01.2020

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**(RAJ MOHAN SINGH)
JUDGE**

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No