

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

111+209

CRM-M-7400 of 2021 (O&M)

Date of decision:25.08.2021

Khushal Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Raman Goklaney, Advocate
for the petitioner.

Mr. Sandeep Singh Deol, DAG, Punjab.

SUVIR SEHGAL, J. (Oral)

The Court has been convened through video conferencing due to Covid-19 pandemic.

CRM No.7378 of 2021

Application is allowed.

Annexure P-5 is taken on record, subject to all just exceptions.

CRM-M-7400 of 2021

This is the second petition filed by the petitioner under Section 439 of the Code of Criminal Procedure for grant of regular bail in case FIR No.350, dated 03.10.2020 registered for offence under Section 116 of Indian Penal Code, 1860 (Section 306 of IPC was added later on), at Police Station Sadar Fazilka, District Fazilka (Annexure P-1).

As per the version of the prosecution, FIR (Annexure P-1), was registered on the basis of the statement of Kuldeep Singh, deceased, which was recorded in the presence of the Judicial Magistrate on 03.10.2020, on the allegation that he was working as a Granthi in Ghati Gurudwara Sahib in the village and Gopal Singh, his son Satpal Singh and Khushal Singh (present petitioner) had been harassing him and pressurizing him to leave the Gurudwara Sahib. He further stated that Satpal had a scuffle with him a night before, hit him repeatedly with a brick bat and he doused himself in petrol and set himself afire. Initially FIR was registered under Section 116 IPC but two days after recording his statement, Kuldeep Singh expired and Section 306, IPC was added.

Counsel for the petitioner submits that first petition seeking grant of regular bail (CRM-M-42138 of 2020) was withdrawn after arguments on 18.12.2020 (Annexure P-4) but thereafter, challan has been presented on 23.12.2020, charge has been framed on 15.03.2021 and additional custody of more than eight months, is a change in the circumstances enabling him to file a fresh petition before this Court. Counsel has relied upon the order dated 09.07.2021 (Annexure P-6) passed by this Court in CRM-M-25071 of 2021 preferred by co-accused, Gopal Singh and has drawn the attention of this Court to the primary argument raised on behalf of the petitioner, which is reproduced here under:-

“Counsel for the petitioner has referred to the affidavit of Gurmeet Singh, Sarpanch of Village Rete Wali Bhaini, Tehsil and District Fazilka (at page 49 of the paper-book) to submit

that there were complaints by women folk of the village against the deceased, who was working as a Granthi and on 01.10.2020, the account of the Granthi was settled, he was paid Rs.10,000/- and asked to leave the Gurudwara Sahib. He has also referred to the affidavits of the other residents of the village as well as the Resolution, Annexure P-7, passed by the Panchayat to this effect.”

Counsel for the petitioner has urged that the essential ingredients of Sections 107 and 306 of IPC are not satisfied and there is no material with the prosecution come to the conclusion that the petitioner instigated the deceased to commit suicide. He has referred to the medical record (Annexure P-5) of the wife of the petitioner to submit that she is suffering from age related ailments and remained admitted in the hospital. He submits that the petitioner, who is a senior citizen, 60 years of age, is in custody since 12.10.2020 and is no longer required for custodial interrogation as the challan has been presented and the charges have been framed.

Per contra, State counsel upon instructions from SI Gurjit Mann, submits that the petitioner alongwith co-accused have been specifically named by the deceased in his statement recorded before the Magistrate which in fact is his dying declaration and categorical allegations have been levelled against him. As per his instructions, out of total 25 prosecution witnesses, none could be examined due to restricted functioning of the Court.

Having considered the facts and circumstances, the Court is of the opinion that it would be debatable as to whether the petitioner has abetted the deceased to commit suicide. The case of the petitioner is at par with that of co-accused, Gopal Singh, who has been ordered to be released on bail, pending trial, by this Court, vide order dated 09.07.2021. This Court is *prima facie* of the view that the petitioner, who is in custody since last more than 10 months, would be entitled to be released on bail.

Without commenting on the merits or demerits of the arguments raised by counsel for the parties, the petition is allowed. The petitioner is ordered to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

It is clarified that any observation made hereinabove shall not be construed as an expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

August 25, 2021
savita

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes