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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.8816 of 2021 (O&M)

Date of decision: 20.07.2021

Jasvir Singh @ Seera @ Sukha

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. B.S. Sidhu, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN J. (Oral)

CRM-19926-2021

Prayer in this application is for preponing the date fixed in
the main petition.

Heard.

For the reasons stated in the application, the same is
allowed and the main case is taken up today for hearing.

CRM-M-8816-2021

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.164 dated 17.08.2019, for offence punishable
under Sections 302, 34 of the Indian Penal Code, 1860 (in short 'IPC')
(Section 120-B IPC added later) registered at Police Station Sangat,
District Bathinda.

Counsel for the petitioner has relied upon the order dated

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16.02.2021, granting bail to the co-accused Joginder Singh. The operative part of the said order, reads as under:-

“Learned counsel for the petitioner submits that petitioner is in judicial custody for the last about 01 year and 05 months and both the daughters of deceased Sukhpal Kaur have not supported the prosecution version.

Learned counsel for the petitioner relies upon the statement of PW-2 Gurpreet Kaur as well as PW-3 Gurmail Kaur @ Golo, who have stated that their mother never told them about accused Jasvir Singh that she had a suspicion that he may commit her murder.

Learned counsel further submits that both of these witnesses have not supported the prosecution version and during cross-examination by the Public Prosecutor, these witnesses have even denied having made any statement before the police on the pretext that their signatures were taken on a blank paper. It is further stated that witness Kulwant Singh @ Rinku is only an informant to PW-2 and PW-3 about the murder of their mother on the next morning.

Learned counsel further submits that in view of the statement of aforesaid both the witnesses, which is the only evidence against the petitioner, the chances of conviction of the petitioner are very bleak.

Learned counsel for the petitioner further submits that even as per statement of PW-1 Dr. Harmeet Singh, who conducted the postmortem of deceased, it is stated that possibility of head injury by fall from the height cannot be ruled out.

Learned State counsel, on the basis of the affidavit of DSP, Bathinda (Rural), dated 07.10.2020, though supports the prosecution version, however, he could not dispute the fact that subsequent to filing of the aforesaid affidavit, PW-2 and PW-3, in their statement recorded on

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18.01.2021, they have not supported the prosecution version.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the aforesaid facts and circumstances of the case; 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/Illaq Magistrate, concerned.”

For the sake of brevity, the facts are not reproduced again.

Counsel for the petitioner has further submitted that the allegations against the petitioner are identical in nature and as on today, the petitioner has undergone more than 01 year, 10 months and 27 days and he is not involved in any other case. Lastly, it is submitted that no fresh evidence has come against the petitioner and the aforesaid 02 PWs have not supported the prosecution version.

Counsel for the State on the basis of the Custody Certificate has not disputed the factual position but opposed the prayer for bail.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody for the last 01 year 10 months and 27 days; the co-accused of the petitioner is already released on bail; the petitioner is not involved in any other case; the custodial interrogation of the petitioner is not required and the conclusion of the trial will take some time due to COVID-19 situation, 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/Illaq Magistrate/Duty Magistrate.

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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

20.07.2021

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No