

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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CRM-M No.25071 of 2021 (O & M)

Date of decision:09.07.2021

Gopal 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.

This is the second petition filed by the petitioner under Section 439 of Cr.P.C. for grant of regular bail in case FIR No.350, dated 03.10.2020 registered for offence under Section 116 IPC, 1860, (Section 306 IPC was added later on vide rapat No.33 dated 05.10.2020), registered at Police Station Sadar Fazilka, District Fazilka.

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 the allegation that he was working as a Granthi in a Gurudwara Sahib in the village and Gural Singh (present petitioner), his son Satpal Singh and Khushal Singh had been harassing him and pressurizing him to leave the Gurudwara Sahib. He further stated that Satpal had a scuffle with him and hit him repeatedly with a brick bat and in the midst of this, he doused himself in petrol and set himself afire. Initially FIR was registered under Section 116 IPC but two days after the recording of the statement, Kuldeep Singh expired and Section 306 IPC was added.

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. It is his submission that the petitioner is 70 years old which fact is apparent from the Adhar Card, Annexure P-9, where his year of birth has been mentioned as 1951 and is in custody since 13.10.2020.

A reference has been made by the counsel for petitioner to the Minutes of the 8th meeting of the High Powered Committee of Punjab State Legal Services Authority, Chandigarh, held on 10.05.2021, Annexure P-10, to submit that as per Sub para 3 of the Annexure-B, thereof, under trial prisoners, who are above 65 years of age and are involved in two under trial cases, in which maximum prescribed punishment is 10 years or less, can be released on interim bail.

By referring to Sections 107 and 108 IPC, counsel for the petitioner has urged that there is no instigation by the petitioner for the deceased to commit suicide. He submits that after the dismissal of the first petition for regular bail on 18.12.2020, the case was committed for trial to the Sessions Court vide order dated 23.12.2020 and as the investigation qua the petitioner is complete, the petitioner is no longer required for custodial interrogation and deserves to be enlarged on bail.

Per contra, learned State counsel upon instructions from ASI

Lakhwinder Singh, has opposed the petition and while doubting the age of petitioner, submitted that the statement given by the deceased has been recorded in the presence of a senior police official as well as the Judicial Magistrate and in the same, the deceased has levelled specific allegation against the petitioner and two other accused. As per his instructions, challan has been presented on 11.12.2020, charge has been framed on 15.03.2021 but all the 25 prosecution witnesses are yet to step in the witness box.

Having considered the arguments addressed by counsel for the parties, the Court is of the opinion that it is debatable as to whether the petitioner has abetted the deceased to commit suicide. This Court is of a prima facie view that the petitioner is entitled to be released on bail, particularly so on account of his age and period of incarceration, which by now is more than eight months.

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.

09.07.2021

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(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No