

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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CRM-M No.20435 of 2020
Date of decision:14.09.2021

Shinda Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Amit Arora, Advocate for the petitioner.

Mr. Ramdeep Partap Singh, DAG, Punjab.

SUVIR SEHGAL J. (ORAL)

This is the first petition filed by the petitioner under Section 439 of Cr.P.C. for grant of regular bail in case FIR No.142 dated 05.08.2016 registered under Section 460 IPC, 1860 (offence under Section 302 and 411 IPC were added later on) at Police Station City Tarn Taran, District Tarn Taran, Annexure P-1.

As per the prosecution case, FIR, Annexure P-1, was registered on the statement of Shinda Singh (present petitioner) on the allegation that he was serving Baba Karam Shah Sai, for the last one year and used to sleep there every night. Record of the donations offered was being kept by Baba. On 05.08.2016, after waking up the Baba at 03.00 am in the morning, he carried out with his normal routine. When came back to the *darbar*, he saw the Baba lying on the cot with his face covered. On removal of the shawl from his face, he found that the Baba had been strangled with his *parna*, which was tied around his neck and thereafter tied with the leg of the cot.

Counsel for the petitioner has urged that the petitioner, who is 74 years of age, is the first informant and has been made an accused on the basis of his alleged extra-judicial confession made before Tarsem Singh @ Sema and Jasbir Singh, who have been examined by the prosecution as PW-1 and PW-2. By referring to their testimony, counsel argues that their evidence is full of inconsistencies and loopholes. He contends that the petitioner is alleged to have confessed his crime to these witnesses on 06.08.2016, and despite the fact that police came to the spot of murder and these witnesses were also present there for 4 to 5 hours, they recorded their statement before the police on 07.08.2016 at 9 PM, and there is no explanation for this delay. It is the argument of the counsel that the murder of the Baba is not the handiwork of a single person and the petitioner who has been serving him had no motive to do so. According to the counsel, material witnesses have been examined, challan has been presented, prosecution evidence is going on and the petitioner, who is 74 years of age, deserves to be released on bail.

Per contra, learned State counsel upon instructions from ASI Joginder Singh, has opposed the petition. He has referred to the status report filed by way of an affidavit of Deputy Superintendent of Police, Sub Division, Tarn Taran, to submit that after committing the murder, the petitioner took the key of the Gohlak and stole money and recovery of Rs.1232/- has been effected from the petitioner. Besides the above two witnesses, State counsel submits that statement of the Investigating Officer has been recorded, one witness has been given up and the evidence of the remaining witnesses including Medical Officers are yet to be recorded.

I have considered the rival submissions of the parties.

Having considered the facts and circumstances of the case, the Court is of the view that the material collected by the prosecution would remain debatable and the petitioner, who is of an advanced age and has been in custody for the last more than 05 years and 01 month deserves to be enlarged on bail as the trial is likely to take time to conclude.

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

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

14.09.2021

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(SUVIR SEHGAL)
JUDGE

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