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

CRM-M-37950-2020

Date of Decision : 26.08.2021

Jaswinder Singh @ Chhinder

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present : Mr. Rahul Arora, Advocate
for the Petitioner.

Mr. B.S. Sewak, Addl. Advocate General, Punjab
for the Respondent/State.

Mr. S.S. Sahu, Advocate
for the Complainant.

SUDIP AHLUWALIA, J. (ORAL)

The instant Petition has been filed under Section 439 of the Code of Criminal Procedure seeking Regular Bail on behalf of the Petitioner in case FIR No.120, dated 5th November, 2019, registered under Sections 302, 34, 120-B of the Indian Penal Code, at Police Station Mamdot, District Ferozepur.

2. The Petitioner has remained in detention for more than 11 months by now, since 21st September, 2020.

3. It may be mentioned that originally the deceased namely Sarabjit Singh was presumed to have died by accidental electrocution after which his body was cremated by his family members without any Post

Mortem.

4. Subsequently, the FIR was lodged by his mother Harjinder Kaur, who claimed that she had later on come to know about the Petitioner's illicit relationship with the widow of her deceased-son, and that she also had access to some telephonic conversation which took place between the said widow Parampreet Kaur and her sister Manpreet Kaur in which she admitted that the deceased had not died due to electrocution but had been killed by two unknown intruders accompanied by a lady, who had come to their house in the night, locked her in a room and then killed her husband as they had some land related dispute. The said Parampreet Kaur, who is also a co-accused in the case, had also admitted in the telephonic conversation that she had not disclosed about these facts initially because the intruders/assailants of her husband had threatened to kill her and her family as well, if she did so.

5. It is further mentioned that the said Parampreet Kaur has been granted Anticipatory Bail by this Court in CRM-M-31295 of 2020 only three days ago on 23rd August, 2021 after it was submitted on behalf of the State that her custodial interrogation was not required.

6. On 27th April, 2021, this Court had asked the State to verify and intimate the date and time of the concerned recorded telephonic conversation between Parampreet Kaur and her sister Manpreet Kaur, in which the Complainant-Harjinder Kaur had intervened at times. Ld. State Counsel has been unable to inform the requisite date and time of the call but submits that after completion of investigation Challan against

the present Petitioner has already been submitted, and the matter is now fixed in the Ld. Trial Court on 7th September 2021 for consideration on Charges against him.

7. It may be mentioned that even in the phone call recording, in question, no statement has emerged which could indicate anything in regard to the nature of involvement of the Petitioner in the murder of the deceased Sarabjit Singh, nor the co-accused at any point by slip of tongue admitted anything about the Petitioner's involvement despite being apparently unaware that the telephonic conversation was being recorded.

8. Ld. Counsel for the Complainant has nevertheless drawn attention of the Court to the fact that during inquiry, seven Telephone calls had been noticed which had taken place between the phone belonging to the Petitioner and that of the deceased-Sarabjit Singh, from the night of 17th December and till 4.12 AM in the following morning, by which the deceased was apparently dead.

9. In the opinion of the Court, this cannot be regarded as sufficient material to hold that the conversations did actually take place only between the deceased's wife and the Petitioner, since the actual time of the deceased's death is unknown, as no Post Mortem on his body was conducted, and the phone admittedly belonged to the deceased, himself.

10. The Petitioner himself from his side during inquiry had also admitted that he had received a phone call at around 4.15 AM in the morning, which certainly is consistent with the factum of the last recorded telephonic conversation at 4.12 AM. His version before the Police was that

he had received the call from Parampreet Kaur herself to the effect that her husband was in a very serious condition, on account of which, the Petitioner had rushed to her house along with his father, and also took a local Doctor with them who was of the opinion that Sarabjit Singh had died on account of electrocution.

11. In the overall facts and circumstances, therefore, this Court is of the opinion that further detention of the Petitioner for an indefinite period at this stage is not called for, particularly considering that investigation against him has already been completed long ago and the prime accused in the FIR namely Parampreet Kaur has already been granted anticipatory bail earlier.

12. As such, without commenting upon the other merits of the case and keeping in view the period of custody already undergone by the Petitioner, he is ordered to be released on bail subject to the satisfaction of the Ld. Trial Court/Duty Magistrate concerned.

13. It is, however, clarified that the Ld. Trial Court shall not be influenced by any of the observations recorded in this order and shall proceed on to conduct trial and pronounce its final judgment independently, on its own merits.

14. Disposed off.

August 26, 2021

Dpr

**(SUDIP AHLUWALIA)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No