

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-42729-2020 (O&M)
Date of decision: 22.02.2021

Anter Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. J.S. Sandhu, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of regular bail in FIR No.08 dated 14.01.2019 under Sections 302, 201, 420, 120-B, 506, 34 IPC, registered at Police Station Nathana Bathinda, District Bathinda.

Learned counsel for the petitioner relies upon the order dated 15.09.2020 passed in CRM-M-7863-2020, vide which co-accused Jagdev Singh @ Jagga has been granted the concession of regular bail. The operative part of the order reads as under: -

“...Learned counsel for the petitioner relies upon order dated 19.11.2019 passed by this Court in CRM-M Nos. 39046 & 39424

of 2019, vide which, two co-accused, namely Jagjit Singh and Malkeet Kaur, have been granted concession of regular bail. The operative part of the order reads as under:

“Learned counsel for the petitioners submits that as per allegations in the FIR, registered on the statement of Toga Singh, petitioner Malkeet Kaur was married to Nath Singh and three children were born out of the said wedlock. From her previous marriage, Malkeet Kaur has one girl child, who is also residing with her. Nath Singh had one brother Manga Singh @ Makka, who was unmarried. Both Nath Singh and Manga Singh @ Makka are deaf and dumb by birth. Mother of Nath Singh had brought one Jagga Singh @ Jagdev Singh from her relative, who was residing in the village for the last 10/12 years. Since many Court cases relating to the land were pending, petitioner Jagjit Singh, who was Patwari Halqa, used to help them in this manner. Manga Singh @ Makka was missing for many days and the complainant had gone to the house of Nath Singh to enquire about this fact and found that Jagdev Singh @ Jagga and petitioner Jagjit Singh, Patwari Halqa were threatening his brother-in-law’s daughter Malkeet Kaur that they have killed Manga Singh @ Makka and they will eliminate her as well. Upon inquiry, Malkeet Kaur informed him that petitioner, in conspiracy with Jagga, Antar Singh, Gosha Singh @ Total, have murdered Manga Singh @ Makka and are threatening her on account of acquisition of land of Nath Singh and Manga Singh @ Makka and are demanding money.

Learned counsel for the petitioners has further argued that petitioner Jagjit Singh has nothing to do with Nath Singh and Manga Singh @ Makka and their land was acquired in the year 2016. Learned counsel has placed on

record photocopies of the cheques, which were issued by the Land Acquisition Collector, Punjab in the name of Nath Singh and Manga Singh @ Makka. The photocopies of the aforesaid cheques are taken on record as Mark 'A'. It is further submitted that Manga Singh @ Makka died on 14.01.2019 i.e. 03 years, after the amount was received by him and the allegations against the petitioners are false, as even on earlier occasion, the complainant's son has registered an FIR under Section 376 IPC, in which the prosecutrix (daughter of Malkeet Kaur) has not supported the prosecution version and was declared hostile. The photocopy of statement of the prosecutrix dated 05.11.2019 is taken on record as Mark 'B'.

Learned counsel for the petitioners has next argued that in fact, the complainant, being the close relative of Nath Singh and Manga Singh @ Makka, himself has an eye over their property and the petitioners have been falsely implicated. It is further submitted that petitioner Malkeet Kaur was not nominated in the FIR and she has been named subsequently during the investigation that she has also actively participated in the murder of Manga Singh @ Makka. It is also submitted that except the statement of complainant, there is no other evidence regarding the conspiracy of committing the murder of Manga Singh @ Makka. Learned State counsel, on the basis of affidavit of the Investigating Officer/Inspector Shiv Chand, has four accused persons namely Jagdev Singh @ Jagga Singh, Jagjit Singh (petitioner), Antar Singh and Gosha Singh @ Tota. Later on, petitioner-Malkeet Kaur was nominated in the FIR and there are allegations of cheating against petitioner Jagajit Singh and allegations of murder of Manga Singh @ Makka are against remaining accused persons and

now the case is fixed for recording the prosecution evidence. It is further stated in the affidavit that Manga Singh @ Makka was owner of 04 kanals of land and his mother Gurmail Kaur was also owner of 04 kanals of land and there was some exchange of land.

Learned counsel for the complainant has, however, argued that on account of the amount received from the Land Acquisition Collector, Punjab, Manga Singh @ Makka was murdered by the accused persons and petitioner Jagjit Singh is also facing trial for the offence punishable under Section 376 IPC, in which daughter of petitioner Malkeet Kaur was the prosecutrix, however, he could not deny that in the said proceedings, the prosecutrix, while appearing as a witness, has not supported the prosecution version, as per her statement dated 05.11.2019 recorded by the Additional Sessions Judge, Bathinda and she has even stated that the FIR was got registered at her instance by exerting pressure, upon which the Public Prosecutor declared her a hostile witness.

After hearing learned counsel for the parties, without commenting anything on merits of the case and in view of the affidavit of the Investigating Officer that the primary charge against petitioner Jagjit Singh is under Section 420 IPC and also considering the fact that petitioner Jagjit Singh is in custody since 18.01.2019 and conclusion of the trial will take some time, he is directed to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

Considering the fact that petitioner Malkeet Kaur was not initially named in the FIR and her name was surfaced during the investigation, in view of affidavit of the

Investigating Officer and also in view of the fact that she is in custody since 18.01.2019, she is also directed to be released on regular bail subject to furnishing her bail/surety bonds to the satisfaction of the trial Court/Illqa Magistrate/Duty Magistrate.”

Learned counsel for the petitioner further submits that petitioner and co-accused Jagdev were also nominated in FIR No. 11 dated 19.01.2019, registered under Section 376-D IPC at Police Station Nathana, District Bathinda, at the instance of Ram Singh, son of the present complainant Toga Singh. It is further submitted that now the petitioner stands acquitted in the said FIR under Section 376-D IPC as the prosecutrix made a statement that she was pressurized by Toga Singh and his son Ram Singh to falsely implicate the petitioner in this case and, therefore, all the accused were acquitted in that case. A photocopy of the said judgment dated 02.03.2020 is taken on record as Mark 'A'.

Learned counsel for the petitioner further submits that now it is apparent that petitioner has falsely been implicated in the present case as well at the instance of complainant Toga Singh as even the allegations in the FIR are that when complainant Toga Singh visited the house of Malkeet Kaur, the petitioner and other accused were threatening her and later on, Malkeet Kaur was also implicated in the present case who has already been granted concession of regular bail as noticed above.

Learned counsel for the petitioner further submits that

petitioner is in judicial custody for the last about 01 year and 08 months and till date, the complainant has not appeared before the trial Court despite taking repeated adjournments...”

Learned counsel for the petitioner submits that the petitioner is in custody for the last about 02 years and 01 month and is not involved in any other case. It is further submitted that allegations against the petitioner as well as co-accused Jagdev Singh @ Jagga, who stands released on regular bail, are of conspiracy.

Learned State counsel has filed the custody certificate dated 20.02.2021 in the Court today and has not disputed the factual position.

After hearing learned counsel for the parties, without commenting anything on merits of the case and considering the aforesaid submissions made by learned counsel for the parties, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate, concerned.

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

22.02.2021
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No