

Sr. No. 208

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

CRM-M-7471-2022

Date of decision: 31.03.2022

Vipin Jain

...Petitioner

Vs.

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Jaspreet Singh, Advocate,
for the petitioner.

Mr. Sehajbir Singh, DAG, Punjab.

ARUN MONGA, J. (ORAL)

This is second foray of the petitioner before this Court seeking regular bail in FIR No.53 dated 02.03.2018 registered under Section 302 of the Indian Penal Code at Police Station Samrala, District Khanna/Ludhiana, the first was dismissed as withdrawn on 08.09.2020.

2. Learned counsel for the petitioner submits that FIR has been registered on the statement of the complainant/Jatinder Singh with the allegations that he had left his home on 01.03.2018 at 11:00 a.m. and on the next day i.e. on 02.03.2018 at about 02.30 pm, he received a call from his landlord that the doors of his house are open and when he reached on the spot he found that his younger brother, father and mother had been murdered by some unknown persons with sharp edged weapons.

3. Learned counsel for the petitioner submits that FIR was registered against unknown persons and there is no eye-witness to the said incident. Petitioner has been falsely implicated in the present case. He was not even named in the FIR. He has been named only on the statement

of Bahadur Singh (uncle/Masar of the complainant). He submits that

petitioner is stated to be the sole accused, the medical evidence clearly shows that no poison was administered to the deceased. It is not possible for a single person to commit murder of 3 people and that too during day time. Hence, all the allegations are false and unbelievable. He further submits that now all the private prosecution witnesses have been examined. Petitioner has been in custody since 06.03.2018. Investigation is complete. Charges have been framed. Trial has started and the conclusion thereof shall take considerable time.

4. Petitioner was arrested on 06.03.2018 on the basis of an alleged extrajudicial confession made by him before PW-3/Rajinder Singh who is nephew of one of the deceased. The said witness allegedly stated that on 04.03.2013 the petitioner came to him and confessed to his guilt. He allegedly disclosed that he had murdered the deceased with an iron axe after giving him sleeping pills.

5. Learned counsel for the petitioner further submits that it is rather strange that the said PW-3/Rajinder Singh after coming to know of the alleged crime, committed by the petitioner, simply let him go away on the pretext that the petitioner/accused told him that he would surrender himself later-on since at that time his son was not well.

6. Learned counsel for the petitioner emphatically argues that the said version of PW-3 is highly unbelievable, particularly in view of the fact that on 06.03.2018 when the petitioner was apprehended he was driving his three-wheeler. He further submits that it is highly improbable that a person would be roaming as freely and plying his three-wheeler after committing a heinous crime. That apart, learned counsel further

having good relations with the deceased's family, while on the other hand, the petitioner had no enmity with them and there has been no evidence which surfaced either during investigation or otherwise to connect the petitioner with the alleged crime. Learned counsel further submits that no motive has been established by the prosecution for the alleged murder and the petitioner has been simply roped in by the prosecution at the instance of the complainant. He would also lay emphasis on the fact that a single person could not have tied a young healthy man single handedly and then murdered him and it is almost impossible for a single person to murder three healthy people in broad day light. As per the learned counsel, there is no medical evidence to show that the deceased were given any poison or sedative before committing the alleged crime

7. I have heard the rival contentions of the respective learned counsels.

8. On a Court query, learned State counsel on instructions from ASI Mohan Lal does not controvert that all the private prosecution witnesses have been examined and 07 official witnesses are left unexamined.

9. The contentions of learned counsel for petitioner may have substance but same can only be adjudged at the trial. However, only official witnesses are left unexamined, while on the other hand, petitioner has been languishing in Jail for the past more than four years in preventive custody *inter alia* for the reason that he may unduly influence or intimidate the witnesses to be examined.

10. Considering the overall scenario and without commenting on the merits of the case, the instant petition is allowed. I am of the view that

no useful purpose would be served to keep the petitioner in further preventive custody. Furthermore, merely on the apprehension as expressed by the prosecution that the petitioner would influence and intimidate the witnesses, no further custody is required inasmuch as all the prosecution witnesses have already been examined.

11. Accordingly, the petitioner is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court, where his case is being tried and in case he/she is not available, before learned Duty Judge, as the case may be.

31.03.2022

Vandana/ashish

(ARUN MONGA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No