

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

(216)

CRM-M-9198-2022 (O&M)  
Date of decision: - 27.04.2022

Manpreet Singh

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Ritesh Pandey, Advocate  
for the petitioner.

Mr. Sarabjit S. Cheema, AAG, Punjab.

Mr. Manish Verma, Advocate  
and Mr. Kartik Gupta, Advocate  
for the complainant.

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VIKAS BAHL, J. (ORAL)

CRM-15126-2022

Present application has been filed for placing on record  
accompanying documents as Annexures C-1 to C-7.

Application is allowed, as prayed for. Accompanied  
documents (C-1 to C-7) are taken on record, subject to all just exceptions.

CRM-15145-2022

Present application has been filed for placing on record the  
copy of zimini orders as Annexure P-5.

Application is allowed, as prayed for. The copy of zimini orders (P-5) is taken on record, subject to all just exceptions.

**CRM-M-9198-2022**

The present second petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.33 dated 23.03.2021 under Sections 302, 328, 341, 148, 149 and 120-B of Indian Penal Code, 1860, registered at Police Station Sadar Raikot, District Ludhiana.

FIR in the present case was registered on the statement of Jaswinder Singh son of Major Singh, who had stated that he and his brother Rajinder Singh (deceased) were residing in one house as a joint family and when the complainant had gone to his diary farm for milking the buffaloes at about 05:15 AM on 23.03.2021, then Baljinder Singh son of Gurmail Singh came to the fields of the complainant at about 6:30 AM and informed the complainant that dead body of Rajinder Singh, alongwith his scooter, was lying on Rasulpur road and on reaching there, the complainant found that Rajinder Singh had died and there were several injuries on the person of the said Rajinder Singh and even the scooter was stained with blood and red chilly powder. The FIR was registered in which it was alleged that unknown persons had murdered Rajinder Singh. As per the case of the prosecution, the present occurrence was witnessed by one Kamaljit Singh, whose statement was recorded on 15.05.2021. As per the said witness, he, alongwith one Sikander Singh, was standing at the parking of one Gurudwara Sahib when they heard loud noise and they saw accused/Amandeep Singh, Gurwinder Singh and

one unknown person, whose name was ultimately found to be Gursewak Singh, were inflicting injuries upon the deceased Rajinder Singh.

Learned counsel for the petitioner has further submitted that the present petitioner has been falsely implicated in the present case. It has been stated that the petitioner has not been named in the FIR and ever as per the said eye witness, no injury had been inflicted by the present petitioner and in fact, as per the examination in chief of the said eye witness Kamaljit Singh, who had been examined as PW-1, it is apparent that the petitioner was not even present at the spot at the time of the occurrence. It is further submitted that the statement of said Kamaljit Singh, who is a relative of the deceased, had been recorded after a period of more than one and a half month's from the registration of the FIR i.e., the FIR was registered on 23.03.2021 and the said statement was recorded on 15.05.2021. It is further submitted that the petitioner is not involved in any other case and he has been in custody since 12.04.2021 and challan in the present case has been presented and there are as many as 22 witnesses out of which, 16 witnesses are yet to be examined and thus, the trial is likely to take time. It is further submitted that the co-accused of the petitioner, namely, Harwinder Singh @ Kaku has already been granted the concession of regular bail by this Court, vide order dated 08.02.2022 passed in CRM-M-739-2022.

Learned State counsel as well as learned counsel for the complainant have opposed the present application for regular bail and have submitted that in addition to the eye witness account of Kamaljit Singh, there is an extra judicial confession of the present petitioner and

Harwinder Singh @ Kaku made before Ramandeep Singh, who had given a statement on 06.04.2021 to the police and as per the said extra judicial confession, the present petitioner and Harwinder Singh @ Kaku had admitted that they, alongwith Gursewak Singh, Amandeep Singh and Gurwinder Singh, had committed the murder of the deceased Rajinder Singh. It is further submitted that there are records of call exchanged between the petitioner and co-accused. It is also submitted that statement of Surinder Singh @ Sherry (son of the deceased) has also been recorded on 05.04.2021 under Section 161 Cr.P.C., in which, it was stated that he was residing in Canada and has come back from Canada on 23.03.2021. He further stated that his father used to tell him that the present petitioner and the other co-accused persons used to fight with his father and after making due inquiry, he learnt that the murder of his father had been committed by the present petitioner and other co-accused as named in the FIR. It is also submitted that there is a disclosure statement suffered by the present petitioner in pursuance of which, car of make i20, has been recovered.

Learned counsel for the petitioner, in rebuttal, has submitted that even the alleged extra judicial confession is stated to have been made before Ramandeep Singh, who is the nephew of the deceased. It is further argued that Ramandeep Singh is neither the *Sarpanch*, nor does he hold any position of authority, thus, the question of petitioner having made any extra judicial confession before him does not arise. It is further submitted that at any rate, extra judicial confession is a very weak piece of evidence and even with respect to the call records, it is submitted that as per the

challan, there are no details of the conversations exchanged between the petitioner and other co-accused and further, Amandeep Singh and the present petitioner, are the sons of Harwinder Singh and Gurwinder Singh is the nephew of Harwinder Singh and thus, in case there are some calls exchanged between the petitioner and the said persons, the same cannot be taken as an incriminating piece of evidence so as to rope the present petitioner in the present case. With respect to the statement of Surinder Singh @ Sherry (son of the deceased), it is submitted that the same has been recorded on 05.04.2021 i.e. after a delay of 12 days from the date of registration of the FIR. It is further submitted that the said Surinder Singh @ Sherry is residing in Canada and had come back on 26.03.2021 and thus, he was not in India on the date of the alleged incident. It is also submitted that neither the said person was an eye witness nor there is any tangible material on the basis of which, it could be stated that he arrived upon the conclusion that the present petitioner is involved in the present case. It is further submitted that on the date of the incident i.e. 23.03.2021, the said i20 car was not used. It is also submitted that after withdrawal of first bail petition by the petitioner on 08.02.2022, the trial has not made any progress and has also referred to the zimini orders dated 31.03.2022 and 22.04.2022 to substantiate the same.

This Court has heard learned counsel for the parties and has perused the paper-book.

It is not in dispute that the FIR in the present case was registered on 23.03.2021 against unknown persons. Jaswinder Singh, the brother of the deceased, had got the said FIR registered and he had not

even levelled suspicion against any particular person. The statement of the alleged eye witness i.e., Kamaljit Singh, was recorded by the police on 15.05.2021 i.e., after a period of 1 month and 22 days from the registration of FIR . The said Kamaljit Singh has been examined and his statement has been placed as Annexure P-2. A perusal of the said statement of the said PW-1 Kamaljit Singh shows that he had stated that he, alongwith one Sikander Singh had witnessed the alleged occurrence on 23.03.2021 and had seen Amandeep Singh, Gurwinder Singh and Gursewak Singh inflicting injuries upon the deceased Rajinder Singh. It is further the statement of said Kamaljit Singh that he did not tell any person about the same as they were afraid of the accused persons. A perusal of the examination-in-chief of the said witness would show that the present petitioner had not been attributed with any injuries inflicted upon the deceased and in fact, the present petitioner was not even present at the spot of alleged occurrence. In the cross examination, the said Kamaljit Singh, being a relative of the deceased, had admitted the fact that he had attended the funeral ceremony and *Bhog* ceremony of the deceased Rajinder Singh and yet, the fact with respect to his being an eye witness to the alleged occurrence, case was not informed to the family members of the deceased by him. Sikander Singh, who was stated to be the second eye witness, had been given up by the prosecution side. As far as the call records pertaining to the calls exchanged between the petitioner and his brother and his relative Gurwinder Singh, are concerned, it is not in dispute that the details/contents of the conversations held between the said persons or its transcript, are not a part of the challan. The said aspect

would be considered during the course of trial. Even the question as to whether or not the present petitioner had made any extra judicial confession before Ramandeep Singh, who is a relative of the deceased and who is neither stated to be a *Sarpanch*, nor stated to be holding any powerful position of authority and whether on the said basis, the petitioner could be convicted for the murder of the deceased, would again be a matter of trial. It is settled law that an extra judicial confession is a weak piece of evidence. Moreover, the petitioner is stated to be not involved in any other case and Surinder Singh @ Sherry, whose statement has been recorded under Section 161 Cr.P.C. and referred to by learned State counsel as well as learned counsel for the complainant, would also not come in the way of the petitioner being granted the concession of regular bail, inasmuch as, the said Surinder Singh @ Sherry is not an eye witness to the alleged occurrence and was not even in India on the date of the said incident. Further, the weightage to be given to the said statement, would be considered at the time of trial and the i20 car which has been recovered from the petitioner was also not used in the commission of the alleged offence. The petitioner is stated to be in custody since 12.04.2021 and there are as many as 22 witnesses, out of which 16 witnesses are yet to be examined and thus, the trial is likely to take time. Moreover, the co-accused of the petitioner, namely, Harwinder Singh @ Kaku has already been granted the concession of regular bail by this Court vide order dated 08.02.2022, passed in CRM-M-739-2022. Although, the regular bail application of the present petitioner was dismissed as withdrawn at that stage on 08.02.2022, primarily on the ground that he was a young boy,

whereas, co-accused Harwinder Singh @ Kaku was his old father, but even after withdrawal of the said petition, no progress has been made by the trial Court and as is apparent from the zimini orders dated 31.03.2022 as well as dated 22.04.2022, no PW has been examined and PW Ramandeep Singh has not come in spite of service throughailable warrants on both the said dates.

Keeping in view the facts and circumstances, the present petition is allowed and the petitioner is ordered to be released on bail, subject to his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate and subject to his not being required in any other case.

However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial Court would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

It is made clear, in case, the petitioner threatens or influences any witness, it would be open to the State to move an application for cancellation of the present regular bail granted to the petitioner.

**April 27, 2022**  
naresh.k

**( VIKAS BAHL )**  
**JUDGE**

Whether reasoned/speaking?  
Whether reportable?

Yes  
Yes