

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-21447-2022(O&M)
Date of decision : 07.12.2022

Satwant Singh

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Kanisth Ganeriwala, Advocate
for the petitioner.

Mr.Praveen Bhadu, AAG, Haryana.

VIKAS BAHL, J.(ORAL)

This is a petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR no.247 dated 22.07.2021 registered under Sections 302, 201, 34, 120-B IPC at Police Station Sadar Dabwali, District Sirsa.

Learned counsel for the petitioner has submitted that the petitioner has been in custody since 30.07.2021 and the investigation is complete and the challan has already been presented and there are 34 witnesses, out of which, 2 have been examined and thus, the trial is likely to take time and the petitioner is not involved in any other case. It is submitted that the FIR was registered on the basis of statement of Harjit Singh Chowkidar, who along with Sarpanch Gopi Ram had found the dead body of a young man lying in Bhakra Canal. It is further submitted that in the present case there is no eye witness and there is no material to connect the

members of the deceased Gagandeep have not made a complaint against the present petitioner or raised any suspicion against the present petitioner with respect to the death of Gagandeep. It is further stated that as per the challan, there are 4 private witnesses and the said witnesses are Harjit Singh Chowkidar, who is the complainant and Ranjit Singh as well as Sarpanch Gopi and Janak Ram and out of the said witnesses, 2 witnesses i.e., Harjit complainant and Ranjit Singh have been examined as PW1 and PW2 and they have not named the present petitioner in their evidence and have rather stated that at the place of occurrence, they saw that the dead body was lying along with two *lathis*, one beer bottle and two angle iron which, as per the learned counsel for the petitioner, were probably the weapons which had been used in the alleged occurrence. It is further submitted that even Gopi Sarpanch and Janak Ram in their statements under Section 161 Cr.P.C. have not named the present petitioner and even as per the reply filed by the State, the primary evidence against the present petitioner is the mobile location which has been detailed in para 12 of the reply and even as per the details mentioned in para 12, mobile location of the petitioner was not village Pana, whereas the body of the deceased, even as per the case of the prosecution, had been recovered from Bhakhra Nahar Pool in village Pana and for the said purpose, learned counsel for the petitioner has referred to the post mortem report (page 48 of the paper book) which has been annexed along with reply, in which against the field “whence brought/referral”, Bhakhra Nahar Pool, Pana has been mentioned. It is stated that even the alleged motive, as stated in para 7 of the reply, to the effect that said Gagandeep abducted the sister of the present petitioner 8-10 years back and he had further abducted another girl in the October, 2020, would also not further

the case of the prosecution, in as much as the said incident had taken place 8-10 years back. It is further stated that in the present case even the cause of death has not been ascertained.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that as per the mobile tower locations detailed in para 12 of the reply, the present petitioner had travelled from village Phulo Kheri to village Kanakwal to village Desu Malkana and then to village Aseer and village Pipli and then to village Khokhar and then to village Haibuana on the intervening night of 21/22.07.2021. It is submitted that even the co-accused Basant as per the mobile location was found to be in village Phulo Kheri at 12:00 AM and thus, as per the case of the prosecution, the deceased had been murdered in Phulo Kheri and then his body had been thrown into the Bhakhra Nahar Pool at village Pana. It is further submitted that the present petitioner also had a motive behind committing the said murder and all the said aspects would complete the chain of events so as to convict the present petitioner.

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

The petitioner has been in custody since 30.07.2021 and the investigation is complete and the challan has already been presented and there are 34 witnesses, out of which, 2 have been examined and thus, the trial is likely to take time and the petitioner is stated to be not involved in any other case. There is no eye witness in the present case. The FIR was registered on the statement Harjit Singh Chowkidar, who had stated that he along with Sarpanch Gopi Ram, had gone to see the water in the Bhakhra Canal and when they reached the canal bridge, they saw the dead body of a

young man lying near the bridge and the said dead body was ultimately found to be of Gagandeep. The petitioner was not named in the FIR. It is admitted case that none of the relatives of the deceased had named the present petitioner as one of the persons who had murdered the deceased. Learned counsel for the petitioner has highlighted that there are 4 private prosecution witnesses in the present case out of which PW-1 Harjit complainant and PW-2 Ranjit Singh have been examined and both have not stated anything against the present petitioner, even in their examination-in-chief. It is also submitted that even as per their statements, the weapons i.e., two angle iron, two *lathis* and one beer bottle were lying at the place of occurrence. It is further stated by learned counsel for the petitioner that Gopi Sarpanch and Janak Ram, in their statements under Section 161 Cr.P.C. have also not named the present petitioner as being one of the persons, who had committed the murder of the deceased. It is not in dispute that even the cause of death in the present case has not been ascertained. A perusal of para 12 of the reply filed by the State would show that as per the mobile locations of the petitioner, the petitioner was found to be in Phulo Kheri, village Kanakwal, village Desu Malkhana, village Aseer, village Pipli, village Khokhar and village Haibuana. But however, it has not been specifically stated therein that he was found in village Pana, whereas a perusal of the post mortem examination report (Annexure R-1) (Page 47-48 of the paper book) annexed with reply filed by the State would show that the body had been recovered from Bhakhra Nahar Pool at village Panna. The motive alleged against the petitioner is pertaining to an incident that happened 8-10 years ago. The question as to whether in the present case, the chain of events is complete or not so as to convict the present petitioner,

would be finally adjudicated during the course of the trial and this court does not wish to give any final opinion so as to cause prejudice to the case of either of the parties.

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

However, it is made clear that in case, any act is done by the petitioner to threaten or influence the complainant or any of the witnesses, then it would be open to the State to move an application for cancellation of bail granted to the petitioner.

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

Pending miscellaneous application, if any, stands disposed of in view of the abovesaid order.

(VIKAS BAHL)
JUDGE

December 07, 2022

Davinder Kumar

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No