

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-24752-2021

Date of Decision: 5.9.2022

Suraj Dass

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Vipul Aggarwal, Advocate. for the petitioner.

Mr. Mohinder Singh Joshi, Addl. AG, Punjab

KARAMJIT SINGH, J.

The present petition has been filed under Section 439 Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No.104 dated 18.7.2020 registered for the offences punishable under Sections 302 IPC (Sections 120-B, 201 IPC added later on) at Police Station Division No.1, District Police Commissionerate, Jalandhar.

Counsel for the petitioner submits that the petitioner is in custody for the last more than 2 years. He further submits that the present case is relating to murder of Manish Kumar son of Gurbaksh Kaur; that only allegations against the petitioner are that he helped other accused in disposing off the dead body of Manish Kumar. He further submits that the petitioner is not facing charges under Section 302 IPC. He further contends that Gurbaksh Kaur mother of the deceased while appearing in the witness box has clearly stated that she does not know as to who caused murder of her son and is also not aware as to why her son was killed. Counsel for the petitioner further submits that it will take time for trial to conclude. So no

longer period.

Present petition is resisted by the State counsel who submits that all the accused including the petitioner hatched conspiracy and then killed Manish Kumar and then the petitioner disposed off the dead body of Manish Kumar in his four wheeler Chhota Hathi. State counsel further submits that the trial is progressing ahead and at this stage, no ground is made out to release the petitioner on bail. However, the custody period of the petitioner has not been disputed by the State counsel.

I have considered the submissions made by the counsel for the parties.

In this case, two replies were filed on behalf of the State. In the first reply dated 2.12.2021 which was filed by way of affidavit of Sukhjinder Singh, Assistant Commissioner of Police (North), Jalandhar, it was stated that the petitioner at the asking of co-accused Dharminder disposed of the dead body in his Chhota Hathi and in these circumstances, may be the petitioner was not present at the time of committing murder, he was party to the conspiracy made to remove deceased Manish Kumar and he disposed of the dead body of Manish Kumar in his Chhota Hathi.

In the subsequent status report dated 5.5.2022 filed by way of affidavit of Sukhjinder Singh, Assistant Commissioner of Police (North), Jalandhar, it has been mentioned that the petitioner at the asking of co-accused Dharminder disposed of the dead body in his Chhota Hathi and that is why he remained in touch with him. It was further stated in the said status report that in these circumstances, may be the petitioner was not present at the time of committing the murder but he was party to the conspiracy made to dispose of the dead body of Manish Kumar.

Also from the perusal of copy of charge sheet dated 3.3.2021, it is clear that the trial Court has not framed any charge under Section 302 IPC against petitioner Suraj. Also, during the trial, mother of the deceased while appearing in the witness box as PW3 has not stated anything against the present petitioner. Even brother-in-law of the deceased while appearing in the witness box as PW4 simply stated that he identified the dead body of the deceased. PW4 nowhere named the present petitioner in his statement. As per custody certificate available on record, the petitioner is languishing behind the bars for the last more than 2 years. It will take considerable time for the trial to conclude.

So, in view of the fact that the petitioner has not been charged under Section 302 IPC and the main allegations against him are that he disposed of the dead body of deceased Manish Kumar while conspiring with co-accused persons and the mother and brother-in-law of the deceased while appearing in the witness box, have not stated anything against the petitioner and the fact that it will take considerable time for termination of the trial, no fruitful purpose is going to be served by keeping the petitioner in custody for any longer period.

In view of the above, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

(KARAMJIT SINGH)
JUDGE

September 5, 2022

Paritosh Kumar

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No