

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(204-1)

CRM-M-36030-2021 (O&M)
Date of decision:-08.07.2022

Harjit Singh

... Petitioner

Versus

State of Punjab

... Respondent

Manpreet Kaur

CRM-M-34427-2021
...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. S.S.Sidhu, Advocate for the petitioner (s).

Mr. Prabhjot Singh Walia, AAG, Punjab
for State-respondent.

Mr. H.P.S.Ishar, Advocate for the complainant.

...

SUVIR SEHGAL, J. (ORAL)

This order shall dispose of *CRM-M-36030-2021 titled as “Harjit Singh Versus State of Punjab”* and *CRM-M-34427-2021 titled as “Manpreet Kaur Versus State of Punjab”* as both the petitioners are accused in FIR No. 16 dated 28.02.2018, registered for offences under Sections 302, 201, 364 and 114 of the Indian Penal Code, 1860, at Police Station Bareta, District Mansa and have approached this Court by way of separate petitions under Section 439 of the Code of Criminal Procedure, 1973 (for short “the Code”) for grant of post arrest bail.

For the sake of convenience, facts are being taken from CRM-M-36030-2021 preferred by Harjit Singh, who has approached this Court for the second time and his first petition was withdrawn, after arguments, in February, 2021.

Case of the prosecution is that DDR No.13 dated 26.02.2018, Annexure P-1, has been lodged by Jagtar Singh on the allegation that his brother, Gurwinder Singh, is missing, though the complainant does not suspect anyone. Two days later, FIR, Annexure P- 2, was registered by Leela Singh, father of Gurwinder Singh, on the allegation that Gurwinder Singh is married to Manpreet Kaur (petitioner in CRM-M-34427-2021) and has a five year old son. In the evening at about 08:00 P.M. on 24.02.2018, Gurwinder Singh was sitting in a *Khaal* built outside the house and did not return home. His phone has been found to be switched off. Reference has also been made to the DDR registered by Jagtar Singh. It has been alleged that Harjit Singh (petitioner in CRM-M-36030-2021) is in a relationship with Manpreet Kaur and used to frequent their house along with his friends, Deepu, Lekhu and Gurpreet Singh, which was being objected to by the complainant. It has been alleged that Harjit Singh along with his above named friends have kidnapped Gurwinder Singh on 24.02.2018 and may have killed him.

Counsel for the petitioner submits that the body of the deceased was recovered from the Bhakhara Canal on 01.03.2018 and initially the family members did not consent to the post-mortem examination. He submits that cause of death was found to be asphyxia due to antemortem

strangulation. Counsel urges that the petitioner has been named as an accused on the basis of a statement of Deepu, Lekhu and Gurpreet, the three friends of Manjeet, who stated that all of them were travelling together with Gurwinder. When they stopped near a canal, they heard some noise and saw that Harjit was trying to strangle Gurwinder. They tried to intervene, but Harjit dragged Gurwinder and threw him in the canal. Thereafter all of them fled and went to their respective houses.

Counsel for the petitioner has contended that the petitioner has been falsely implicated by cooking up a story after 18 days of the alleged occurrence. It is his argument that there is no material with the prosecution to come to the conclusion that the petitioner was in a relationship with co-accused, Manpreet Kaur. Counsel has questioned the manner in which the investigation has been conducted and by making a reference to FIR, Annexure P-3, has argued that the Investigating Officer is tainted. He submits that the examination-in-chief of all the material witnesses has been recorded, though all of them are yet to be cross-examined. It is argued by him that an application under Section 319 of the Code for summoning the three friends of accused Manjit, as additional accused has been moved by the petitioner, rather than by the complainant, which has been rejected by the Trial Court, and the order is under challenge in CRR-399-2019 before this Court. Counsel submits that the revision petition is pending and while issuing notice, this Court stayed further proceedings before the Trial Court. He submits that the petitioners, who are in custody since 08.03.2018, are languishing behind bars and the trial is not progressing.

Per contra, learned State counsel, upon instructions received from, HC, Kulwinder Singh and on the basis of the status report dated 11.10.2021 filed before this Court, has argued that the prosecution possesses sufficient material to nail the petitioners. He submits that the petitioner is related to the deceased and his mobile location shows his presence at the spot where the murder was committed. As per instructions received by him, prosecution has to examine 29 witnesses, out of which examination-in-chief of four witnesses stands recorded. He is assisted by counsel for the complainant, who has made a reference to a complaint dated 03.12.2018, Annexure C-1, to submit that the prosecution witnesses are being threatened.

I have heard counsel for the parties and examined the material placed on the record.

The petitioners are suffering incarceration for the last more than four years and three months and because of an interim order passed by this Court, trial is not likely to conclude in the near future. Examination-in-chief of the material witnesses has been recorded. A perusal of the complaint, Annexure C-1, upon which reliance has been placed by the counsel for the complainant shows that it was allegedly moved by the three friends of the accused-Manjit way back in December, 2018, they have already been examined and there is no recent complaint against the petitioners, who are in custody.

Keeping in view the above facts, particularly the period of the incarceration of the petitioners, this Court is prima facie of the view that the

complicity of the petitioners in the crime would remain a subject matter of debate before the Trial Court and the petitioners are ordered to be released on bail on their furnishing adequate bail/surety bonds to the satisfaction of the Area Magistrate/Duty Magistrate concerned.

Petitions are allowed.

It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

While being released on bail, the petitioners will furnish an affidavit before the Court concerned to the effect that they will not directly or indirectly contact or meet the prosecution witnesses or their family members or cause any harm to them, or threaten or intimidate them, physically or electronically or by any other means during the pendency of the proceeding arising out of the FIR, Annexure P-2.

(SUVIR SEHGAL)
JUDGE

08.07.2022
Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No