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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-46022-2021(O&M)

Date of Decision: 08.04.2022

Gurwinder Singh alias Gora alias Nikku Dass

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Ramnish Puri, Advocate
for the petitioner.

Mr. Sandeep Singh Deol, DAG, Punjab.

Ms. Jasneet Mehra, Advocate for the complainant.

JASJIT SINGH BEDI, J.(Oral)

The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.320 dated 13.11.2019, registered under Sections 302, 34 IPC, 1860 (Sections 115, 120-B IPC, 1860 added later on) at Police Station Islamabad, Police Commissionerate, Amritsar (Annexure P-1).

The prosecution case in brief is that Balraj Singh S/o Salwinder Singh got registered an FIR that he had received information from a relative that his sister Baljit Kaur alias Roop wife of Gurminder Singh had been murdered by some unknown person by strangulation. The aforementioned FIR came to be registered against unknown persons.

During the course of investigation five accused were arrested namely, Gurminder Singh, Gurwinder Singh @ Gora, Sukhdeep Singh @ J.P., Geja Singh @ Desa and Veerpal Kaur @ Pali.

While Veerpal Kaur alias Pali and Gurminder Singh were the conspirators along with Gurwinder Singh @ Gora, the alleged assailants were Sukhdeep Singh alias J.P. and Geja Singh @ Desa. The motive for the murder was the illicit relations between Veerpal Kaur @ Pali and Gurminder Singh who wanted to do away with Baljit Kaur @ Roop wife of Gurminder Singh.

The learned counsel for the petitioner submits that the only piece of evidence against the petitioner is the extra-judicial confession before Savinder Singh S/o Singara Singh-PW-2, who has since turned hostile. He contends that the call records between all the accused as set out in the challan does not further the case of the prosecution in the absence of the contents of the conversation. He also contends that the disclosure statements of Veerpal Kaur @ Pali and Sukhdeep Singh alias J.P. having been made to the police are inadmissible in evidence. He thus, contends there is no admissible evidence remaining against the petitioner.

On the other hand, the learned State counsel vehemently opposes the bail application but does not dispute the factual position as argued by the learned counsel for the petitioner.

I have heard the rival contentions of both the parties.

The only piece of evidence against the petitioner is the

alleged extra-judicial confession made before Savinder Singh who has since turned hostile. So far as, the disclosure statement/confessional statements of Veerpal Kaur @ Pali and Sukhdeep Singh are concerned, they being made to the police are inadmissible in evidence. Even otherwise, as per the disclosure statement of Sukhdeep Singh, he is said to have received Rs.10,000/- in his bank account from Gurminder Singh, which has not found to be correct as per the challan. Out of 39 witnesses cited by the prosecution 8 witnesses have been examined till date and the material witnesses have not supported the case of the prosecution. The Hon'ble Supreme Court in **“Dr. Gokarakonda Naga Saibaba Versus State of Maharashtra, 2016(2) RCR (Criminal) 675** and this Court in **“Devender Singh @ Devender Chhabra @ Tintu Versus State of Punjab, CRM-M-27957-2015 decided on 22.08.2016** has held that grant of bail can be considered, where witnesses stand examined.

Admittedly, the petitioner has been in custody since 19.11.2019. The trial is not likely to be concluded in the near future. As such, the further incarceration of the petitioner is thus not required.

Thus, without adverting to the merits of the case lest it prejudices either side, I deem it appropriate to enlarge the petitioner on regular bail.

Accordingly, the present petition is allowed. The petitioner is ordered to be released on bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

Nothing expressed hereinabove would be construed to be an expression of any opinion on the merits of the case.

08.04.2022
JITESH

(JASJIT SINGH BEDI)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No