

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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CRM-M-49368-2021 (O&M)

Date of Decision: 30.03.2022

Gurpreet Singh @ Gopi

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Aayush Gupta, Advocate,
for the petitioner.

Mr. Luvinder Sofat, AAG, Punjab,
assisted by SI Joginder Singh.

Mr. Sunil Chadha, Senior Advocate, with
Mr. Akshay Chadha and Mr. Saurav Kanojia, Advocates,
for the complainant.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered against him vide FIR No.0223 dated 17.12.2020 at Police Station Jamalpur, District Police Commissionerate, Ludhiana, under Sections 302/201/34 IPC.
2. The FIR was lodged at the instance of Malkiat Singh, aged about 62 years, wherein he stated that on 09.12.2020 his nephew Lakhvir Singh came to his village, but was looking very upset. Upon enquiry, he (Lakhvir Singh) disclosed that his tenant Gurdeep Singh had illicit relations with his wife namely Gurpreet Kaur. Malkiat Singh further stated that Lakhvir Singh also disclosed that although he had warned aforesaid Gurdeep Singh several times not to visit his house, but to no

avail. The complainant further stated that Lakhvir Singh also disclosed that said Gurdeep Singh alongwith another boy namely Gurpreet Singh @ Gopi had been threatening to kill him and that he (Lakhvir Singh) apprehended that his wife Gurpreet Kaur alongwith Gurdeep Singh and Gurpreet Singh @ Gopi would eliminate him. The complainant stated therein that he, however, calmed down Lakhvir Singh and sent him back. Thereafter, on 12.12.2020, the complainant received a telephonic call from Gurpreet Kaur, who informed the complainant that Lakhvir Singh was missing since 11.12.2020. Initially, the complainant thought that Lakhvir Singh had gone to Delhi to participate in farmers' protest, but upon finding that mobile phone of Lakhvir Singh was switched off, he got suspicious and made enquiries from Lakhvir Singh's wife namely Gurpreet Kaur, who did not give any satisfactory reply. It is further stated therein that Sandeep Singh, President of the Market of Village Tajpur Bet, told the complainant that on the intervening night of 10/11.12.2020, when he was standing outside his house, he had seen Gurdeep Singh and Gurpreet Singh @ Gopi in Innova car bearing registration No.PB10CY-0222 and in which somebody was lying on the rear seat. The complainant, thus, suspected that his nephew Lakhvir Singh was killed by his wife Gurpreet Kaur, Gurdeep Singh and Gurpreet Singh @ Gopi (petitioner).

3. Learned counsel for the petitioner has submitted that it is a case of blind murder based totally on circumstantial evidence and that the prosecution mainly relies upon the 'last seen' evidence in the shape of statement of Sandeep Singh, who had seen the petitioner alongwith his co-accused

- Gurdeep Singh going in an Innova car in which somebody was lying on the rear seat. It has been submitted that the said evidence cannot be said to connect the petitioner with the murder of Lakhvir Singh inasmuch there is nothing to suggest that the person lying on the rear seat of the Innova car was Lakhvir Singh (deceased). It has been submitted that apart from the said evidence, there is no other convincing evidence to connect the petitioner with the alleged occurrence.
4. On the other hand, learned State counsel as well as learned senior counsel representing the complainant have submitted that in the present case after the accused were arrested, they suffered a disclosure statement admitting their guilt and in fact also got the dead body of the deceased recovered from the bushes. It has further been submitted that the dead body was found to be bearing strangulation mark and injury on the head and as per the post-mortem report, the cause of death has been opined to be 'asphyxia due to antemortem strangulation and hemorrhage and shock due to head injury, which is sufficient to cause death in ordinary course of nature'. It has been submitted that since the accused got recovered the muffler with which the deceased had been strangled and also got recovered a base-ball bat with which the deceased had been inflicted injury on his head, the complicity of the petitioner is clearly evident. Learned State counsel has, however, informed that the petitioner as on date has been behind bars since the last about 1 year & 3 months and that as on date 4 PWs including the complainant and Sandeep Singh already stand examined out of cited 24 PWs. It has also been informed that the petitioner, otherwise, is not involved in any other case.

5. I have considered rival submissions addressed before this Court.
6. It is not in dispute that it is a case of blind murder based totally on circumstantial evidence. It will be debatable as to whether the 'last seen' evidence can be used against the petitioner, when the identity of the person lying on the rear seat of the Innova car being driven by Gurdeep Singh is not established. No doubt, the police is also relying upon the factum of recovery of dead body, muffler and base-ball bat stated to have been recovered at the instance of the accused, but said evidence would require some corroboration so as to establish the complicity of the petitioner. In any case, the petitioner has been behind bars for a substantial period of about 1 year & 3 months. The private witnesses including the complainant as well as PW Sandeep Singh pertaining to the 'last seen' have already been examined. The petitioner, otherwise, has a clean record and is not even stated to be involved in any other case. In these circumstances, further detention of the petitioner will not serve any useful purpose as the conclusion of trial will take some time. The petition, as such, is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

30.03.2022

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(GURVINDER SINGH GILL)
JUDGE

Whether speaking/reasoned: **Yes/No**
Whether reportable: **Yes/No**