

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-54404-2021 (O&M)
Date of Decision:- 6.4.2022

Gaurav Kumar Petitioner
Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Padamkant Dwivedi, Advocate, for the petitioner.

Mr. Luvinder Sofat, AAG, Punjab,
assisted by ASI Jaswinder.

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.323, dated 20.8.2020, Police Station Zirakpur, District SAS Nagar, under Sections 302/34 IPC.
2. The FIR was lodged at the instant of Jatinder Kumar wherein it is alleged that he along with his elder brother Harinder Singh reside along with their parents in Derabassi. His brother had been married about 11-12 years back, but his marriage was dissolved about 5-6 months back. He used to ply an auto-rickshaw. On 19.8.2020 he did not return back home. On 20.8.2020 he received telephonic information that dead body of his brother Harinder Singh had been recovered from shrubs near the slip-road of Airport. Complainant

went to the spot and identified the dead body to be of his brother. The complainant alleged therein that his brother had been murdered by unknown persons on the night intervening 19/20.8.2020 while inflicting injuries with some sharp edged weapon on his neck.

3. Learned counsel for the petitioner has submitted it is a case of blind murder wherein no one is named in the FIR and that he has been nominated subsequently on the basis of statement of one Mahesh Arya who claims that he had seen the petitioner in the presence of the deceased on the day of occurrence.
4. On the other hand learned State counsel has submitted that apart from the aforesaid 'last seen' evidence, the petitioner had also confessed his guilt by making an extra judicial confession before one Harjinder Singh and that during the course of interrogation the petitioner got recovered a knife and a rope used for the commission of offence. Learned State counsel has however, informed that the petitioner as on date has been behind bars since the last 1 year and 7 months and that he is not involved in any other case. It has also been informed that although 21 PWs have been cited, but till date none has been examined.
5. I have considered rival submissions addressed before this Court.
6. It is not in dispute that it is a case based totally on circumstantial evidence. It will be a matter of evidence as to whether the evidence proposed to be led by the prosecution in the shape of 'last seen' evidence and extra judicial confession is found to be credible and sufficient enough to nail the guilt of the accused. The petitioner

otherwise has been behind bars since the last about 1 year and 7 months and is not stated to be a previous convict. Conclusion of trial is likely to consume time inasmuch as not even a single PW out of the cited 21 has been examined so far. In these circumstances, further detention of the petitioner would not be justified. The petition, as such, is accepted and the petitioner is ordered to be released on bail subject to his furnishing bail bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

6.4.2022

Mohan

(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No