

**213 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-M No.6617 of 2022 (O&M)****Date of decision : 31.07.2023**

Kundan Prasad

..... Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN*******

Present :- Mr. Narinder S.Lucky, Advocate
for the petitioner.

Mr. Amit Shukla, Asst. A.G., Punjab.

*********PANKAJ JAIN, J. (ORAL)**

1 This petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case F.I.R. No.482 dated 10.12.2020 registered under Sections 302/201/120-B & 506 IPC at Police Station City Barnala, District Barnala.

2 Custody certificate dated 28.07.2023 by way of affidavit of Kulwinder Singh, Superintendent of District Jail, Barnala on behalf of State has been filed. The same is taken on record.

3 As per the allegations levelled in the FIR registered on the statement of one Adesh Kumar S/o Anil Kumar, it has been alleged as under :-

“Copy of, Statement of Adesh Kumar S/o Anil Kumar R/o Street No. 4, near "Bhime D Chakki", Sekha road, Barnala, mobile 98155-19422, stated that I, am the resident of above-mentioned address. I, have two sisters and one brother. My elder sister and my brother are married, and one sister in unmarried. My father works in the Trident Factory, Dhaula. Our whole family lives together in one house. I and my brother Sunny

Kumar @ Gora aged about 20 years, worked with confectioner. On 04.12.2020 at about 4 in the evening my brother Sunny Kumar on his motorcycle went out from the home. We waited for him till late night, but he didn't come back home. Till today we coordinated with our known persons and other relatives but did not find any whereabouts of my brother. During this investigation I came to know that on 04.12.2020 my brother Sunny Kumar had a dispute with Makhan Kumar, Ravi, Bhima resident of Prem Nagar Barnala. And because of this, in search of my brother when I reached near Kesar Palace Raikot Road Barnala, the time was about 12/1 in the morning, and there I found Makhan Kumar, Ravi, Bhima residents of Bihar, Ram Prakesh resident of U.P., Kundan resident of Rajasthan, now all are residing at Prem Nagar, Barnala, from long time. I enquired about my brother Sunny Kumar from them, and they replied that do not look for your brother, because "Ganga Gai Had we Kade Muddeh Han", we have done his job, you keep quite and sit at home, and if you search for him then you will also face the same consequences. So, being scared of them I went home and told the entire story to my father. Now we have full belief that they have killed my brother Sunny Kumar @ Gora in connivance with each other and had destroyed his body, because of the grudge which arised out of the fight of above with my brother Sunny Kumar on 04.12.2020, they have Killed my brother Sunny Kumar@ Gora. Today I, was going to police station with my father to give my report, you met me on the way. I have told you all truth. Legal action may be taken against above persons. Statement has been got recorded to you, and is correct. Sd/- Adesh Kumar above, Sd/- Anil Kumar S/o Vani Singh resident of Sekha Road, Barnala, S/d- Gurmail Singh SHO Police Station City-2 Barnala dated 10.12.2020."

4 The role assigned to the present petitioner is based upon the extra judicial confession wherein the petitioner is claimed to have been standing outside when the deceased was murdered and pursuant to his disclosure statement, mobile phone of deceased Sunny Kumar was recovered.

5 Learned counsel for the petitioner submits that as per the allegations levelled in the FIR deceased was murdered on the intervening night of 04.12.2020/05.12.2020 and on that date, only the complainant

came to know that the deceased has been murdered yet the present FIR was lodged on 10.12.2020 and the discovery pursuant to disclosure made by the petitioner was effected only on 15.12.2020. Petitioner is behind bars for more than 2 years, 7 months and 14 days. Not only investigation stands concluded rather the trial has also advanced considerably. Thus there is no apprehension that the petitioner can tamper with the evidence. The matter is of the circumstantial evidence wherein there is no direct allegations against the petitioner even as per his disclosure.

6 Learned State counsel is not in a position to dispute the aforementioned factual assertions based on record.

7 I have heard learned counsel for the parties and have gone through the records of the case.

8 Without commenting on the merits of the case and considering the incarceration suffered by the petitioner and the fact that there is no apprehension that the petitioner shall tamper with the evidence, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.

9 Needless to say that anything observed herein shall not be construed to be an opinion on the merits of the case.

(PANKAJ JAIN)
JUDGE

31.07.2023
Pooja sharma-I

Whether speaking/reasoned	Yes
Whether Reportable :	No