

CRM-M-8430-2023 (O & M)
(213-2)

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

Date of decision: 24.08.2023

(1) CRM-M-8430-2023 (O& M)

Ajay Gill Petitioner

V/s

State of Punjab ...Respondent

(2) CRM-M-8547-2023 (O& M)

Sharanjit Singh @ Sunny Dattar Petitioner

V/s

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. APS Sandhu, Advocate,
(in CRM-M-8430-2023).
Mr. Rishu Mahajan, Advocate,
(in CRM-M-8547-2023)
for the petitioner(s).

Ms. Ramta K Chaudhary, DAG, Punjab.

JASJIT SINGH BEDI, J. (Oral)

This order shall dispose of two criminal miscellaneous petitions
i.e. CRM-M-8430-2023 and CRM-M-8547-2023 as they arise out of the
same FIR.

For the sake of convenience, the facts are being taken from the
petition bearing No. CRM-M-8430-2023.

2. The prayer in the present petitions under Section 439 Cr.P.C. is
for the grant of regular bail to the petitioners-Ajay Gill and Sharanjit Singh

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@ Sunny Dattar in case FIR No.74 dated 24.03.2022 registered under Sections 365, 302, 34 IPC (Sections 201 IPC added later on) at Police Station Sadar, District Amritsar.

3. The brief facts of the case are that Kirpal Singh (complainant) lodged a missing person report with the investigating agency on 15.02.2022 to the effect that his son Kuljit Singh had left the house to go to his duty on 14.02.2022 on his scooter but had not come back. On a search being conducted, he could not be found.

Thereafter, on 17.02.2022, the statement of Kirpal Singh (complainant) was recorded once again wherein he stated that after his son had gone missing, a search was made for him, and on 17.02.2022, his dead-body was found lying near Railway lines in the area of Mohkampura in mysterious circumstances. The post-mortem of the dead body of Kuljit Singh was conducted on 18.02.2022 at Civil Hospital, Amritsar.

On 24.03.2022, the complainant once again got recorded his statement before the SHO, Police Station Sadar, Amritsar, wherein he stated that he had enquired at his own level and had found that his son Kuljit Singh (deceased) had been killed by Gurjant Singh @ Titu, Ajay Gill (petitioner in CRM-M-8430-2023) and Sharanjit Singh @ Sunny Dattar (petitioner in CRM-M-8547-2023) by giving him poison. The motive for the occurrence as disclosed by his deceased son some days prior to the occurrence was that Gurjant Singh @ Titu and Ajay Gill had borrowed money from him (deceased) and when he (deceased) demanded his money back, the accused had quarreled with him and had threatened him. He (complainant) was confident that Gurjant Singh @ Titu, Ajay Gill and Dattar in connivance with their other associates had killed his son.

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Based on the said statement, the instant FIR came to be registered.

During the course of investigation, on 24.03.2022, one Himmat Kumar @ Raja was joined in the investigation wherein he stated that on 24.03.2022, Gurjant Singh @ Titu and Ajay Gill had come to his shop. They had disclosed to him that on 14.02.2022, the deceased Kuljit Singh was killed by them (Gurjant Singh @ Titu, Ajay Gill) and Sharanjit Singh @ Sunny Dattar due to a money dispute and they had thrown his dead body near the Railway lines. They (Gurjant Singh @ Titu and Ajay Gill) had requested him to help them (accused) with the police.

Thereafter, the supplementary statement of Kirpal Singh was recorded to the effect that his neighbour Rajinder Kumar had told him that he had seen Titu and Ajay Gill arguing with the deceased on 14.02.2022 at about 6.00/7.00 p.m. and Kuljit Singh (deceased) was asking them to return his money. Both the accused had told Kuljit Singh that they would get him money from Dattar. Thereafter, they had taken Kuljit Singh on their scooters towards the backside of the petrol pump. After some time, Ajay Gill, Titu and Sharanjit Singh @ Sunny Dattar came there and he (Rajinder Kumar) had asked them as to the whereabouts of Kuljit Singh but the three accused had given no answer. The statement of Rajinder Kumar was recorded under Section 161 Cr.P.C. to the same effect. He had further stated that after seeing the deceased in the presence of the accused, he had gone to U.P. for a month and had come back only now.

Based on the aforementioned evidence, the accused including the petitioners came to be arrested and suffered their disclosure statements

admitting that they had made the deceased Kuljit Singh consume poison

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forcibly. Thereafter, they had thrown him near the Railway lines at Mohkampura and his scooter had been concealed in the house of Gurjant Singh @ Titu, who subsequently, got it recovered.

4. The learned counsels for the petitioners contend that the extra judicial confession purportedly made by the petitioner-Ajay Gill and Gurjant Singh @ Titu to Himmat Kumar @ Raja cannot be believed. It does not stand to reason that the accused would go and make a confession to an unknown person more than one month after the occurrence when the crime itself had been committed in utter secrecy. Even otherwise, extra judicial confessions by their very nature were weak pieces of evidence and could not be relied upon without substantial corroboration. They further contend that the statement of Rajinder Kumar @ Nanhe Lal who stated that he had seen the accused in the company of the deceased on 14.02.2022 also cannot be believed as the said statement under Section 161 Cr.P.C. was recorded on 25.03.2022, more than a month after the registration of the Fir and the explanation furnished for the delay is unacceptable. They further contend that even admitting the statements of Himmat Kumar @ Raja and Rajinder Kumar to be the gospel truth, the said statements are at complete variance with the post-mortem report. As per the extra judicial confession made before Himmat Kumar @ Raja, the accused are said to have committed the murder of the deceased on 14.02.2022. Similarly, as per the last seen evidence of the Rajinder Kumar, he has seen the accused with the deceased on 14.02.2022 and later on, had seen the accused without the deceased on the same day. On the contrary, as per the post-mortem examination, which took place on 18.02.2022, the deceased had died 24-28 hours prior to the

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16/17.02.2022. Therefore, the statements of Himmat Kumar @ Raja and Rajinder Kumar become doubtful and the false implication of the petitioners cannot be ruled out.

5. The learned counsel for the State, on the other hand, contends that the present case is based on circumstantial evidence. The evidence of extra judicial confession and last seen coupled with the motive as is discernible from the evidence of extra judicial confession is sufficient to affix the liability upon the petitioners who have been accused of committing a heinous offence. Therefore, they were not entitled to the concession of bail.

6. I have heard the learned counsel for the parties at length.

7. Admittedly, the case is based on the circumstantial evidence and the two planks of the case are the extra judicial confession and the evidence of last seen. Whether the said evidence is sufficient to inculcate the petitioners shall be adjudicated upon during the course of trial. So far as the recovery of the scooter of the deceased is concerned, the same is shown from the co-accused Gurjant Singh @ Titu. As the petitioners Ajay Gill and Sharanjit Singh @ Sunny Dattar are in custody since 25.03.2022 and 09.04.2022 respectively and none of the 30 prosecution witnesses have been examined so far, the trial of the present case is not likely to be concluded anytime soon. In this situation, the further incarceration of the petitioners is not required.

8. Thus, without commenting upon the merits of the case, the present petitions are allowed and the petitioners, namely, Ajay Gill(in CRM-M-8430-2023) and Sharanjit Singh @ Sunny Dattar (in CRM-M-8547-

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2023), are ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

9. The petitioners-Ajay Gill and Sharanjit Singh @ Sunny Dattar shall appear on the first Monday of every month before the police station concerned till the conclusion of the trial and furnish an affidavit each time that they are not involved in any crime other than the present one.

10. If any attempt whatsoever is made by the petitioners and/or their family members/friends to contact/threaten/intimidate any of the witnesses of the present occurrence, the State/complainant shall be at liberty to move an application for cancellation of bail granted vide this common order.

11. The petitioners-Ajay Gill and Sharanjit Singh @ Sunny Dattar (or through someone on their behalf) shall prepare an FDR in the sum of Rs.50,000/- each and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioners from the Trial without sufficient cause.

(JASJIT SINGH BEDI)

JUDGE

August 24, 2023

sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No