

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

207

CRM M-12403 of 2022
Date of Decision: 02.08.2023

Jagmohan Singh

...Petitioner

Vs.

State of Punjab

...Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Anupinder Brar, Advocate for
Mr. Gurinder Singh Goraya, Advocate
for the petitioner.

Mr. M.S. Bajwa, DAG, Punjab.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has moved the present petition under Section 439 Cr.P.C. with a prayer to grant the concession of regular bail to him in case FIR No. 165 dated 18.05.2020 under Sections 302/201 IPC registered at Police Station Dera Bassi, District SAS Nagar.

2. The FIR in the present case was registered on the basis of statement made by Nirmal Singh @ Nimma. As per the complainant, at about 02.00 p.m. on 15.05.2020, a dead body of an unknown woman was found floating in the pond of the village and on this, the police was informed. The police party with the help of respectables of the village, pulled it out of the pond. The dead body of the woman was inflated and foul smell was emanating from the same. Even, the stomach was tied with the Chunni and the bricks in the bag were tied

with the feet and the dead body was thrown in the pond. The dead body was not claimed by anyone and some unknown person had killed the unidentified woman and with an intention to destroy the evidence, the dead body was thrown in the pond with the bricks tied on the feet. With these broad allegations, the FIR was registered in the present case.

3. As per the prosecution, the police recorded the supplementary statement of Nirmal Singh @ Nimma complainant on 27.05.2020 and the name of the deceased was found to be Banita, daughter of Shan Singh, resident of village Purawali. On 29.05.2020, ASI Kuldeep Singh alongwith other police officials went to the village of deceased in U.P., and met Kanhaya Lal and Satya Dev, brother of the deceased. Both of them were shown the photographs and they identified the dead body of the deceased. On the basis of their statement, the present petitioner, who was the husband of the deceased, was arrested.

4. Learned counsel for the petitioner contends that it was a case of blind murder and there was apparently no evidence to connect the petitioner with the crime. As per the prosecution, the disclosure statement of the petitioner was allegedly recorded and no incriminating evidence was recovered in pursuance to the said disclosure statement. The petitioner was arrested in the present case on 04.06.2020 and is in custody for more than 03 years and 01 month. Apart from that, the complainant had already been examined in the

present case and even his testimony could not prove the involvement of the petitioner in the alleged crime. The prosecution has already examined 15 witnesses out of total 21 witnesses and since all the material witnesses have already been examined, the petitioner is not in a position to influence the witnesses or tamper with the evidence.

5. On the other hand, learned State counsel has vehemently opposed the prayer made by learned counsel for the petitioner on the ground that the petitioner is the main accused, who had committed the murder of his own wife and with an intention to destroy the evidence, he had thrown the dead body in the pond after tying bricks with the feet of the dead body. Thus, the petitioner does not deserve the concession of bail.

6. I have heard learned counsel for the parties and perused the record.

7. No doubt, the gravity of an offence is one of the relevant considerations at the time of considering the bail application of an accused, however, the chances of fleeing from the process of justice, or tampering with the prosecution evidence, delay in conducting the trial, criminal antecedents, status of the accused in the society etc., are other considerations, which are also relevant factors, which need to be considered by the Court. In the present case, no doubt, the facts of the case are clearly point towards “seriousness of the charge” against the present petitioner; but at the same time, this Court cannot be oblivious of the fact that the present petitioner is in custody for the last more

than 03 years and 01 month and he cannot be confined in jail during the pendency of the appeal for an indefinite period. The petitioner has already undergone such a long period as an under-trial prisoner and any further incarceration of the petitioner would be violative of his right under Article 21 of the Constitution of India.

8. In view of the above, without commenting any further on the merits, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate/CJM concerned.

02.08.2023

amit rana

(N.S.SHEKHAWAT)

JUDGE

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