

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

217

CRM-M-14778-2023

Date of decision: 07.07.2023

Gulshan @ Gulshan Kumar

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Vipin Mahajan, Advocate
for the petitioner.

Mr. Subhash Godara, Addl. A.G., Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 439 of the Code of Criminal Procedure, 1973 in case FIR No.04 dated 17.01.2022 under Sections 302, 458, 460, 380, 201 and 120-B of the IPC registered at Police Station Ghanie Ke Bangar, Police District Batala, District Gurdaspur.

2. Learned counsel for the petitioner while drawing the attention of this Court to the allegations levelled in the FIR which has been annexed as Annexure P-1, submits that a perusal of the same reveals that it is a case resting on circumstantial evidence and it was registered against unknown persons wherein the complainant stated that his father had been murdered with the intention to commit theft. However, subsequently a new twist was given on the basis of an extra judicial confession allegedly made by co-accused Paramjit Kaur (daughter-in-law of the deceased) wherein she spelt out the alleged motive to get the deceased eliminated. As per the extra judicial

confession, the deceased was keeping an evil eye on her and hence she took the help of co-accused Kuldeep Singh with whom she was allegedly in a relationship, to eliminate the deceased. While drawing the attention of this Court to the aforesaid extra judicial confession which has been annexed as Annexure P-2, learned counsel has further submitted that the petitioner was not named therein and it was only stated that co-accused Kuldeep Singh along with his accomplice murdered the deceased. It has been further contended that it was in the disclosure statement suffered by co-accused Kuldeep Singh, the petitioner was for the first time named as having accompanied him to the house of the deceased at the time of the crime in question. Learned counsel has argued that the evidentiary value of such disclosure statement is of a weak nature coupled with the fact that the motive to commit the crime if at all lay with co-accused Kuldeep Singh and not him. Still further, all this would have to be appreciated in the light of there was no occasion much less any compelling reason for co-accused Paramjit Kaur to make any extra judicial confession since the FIR was registered against unknown persons and no suspicion was raised against her and co-accused Kuldeep Singh. Still further, it has been urged that it was also a matter of record that all the stolen articles including jewellery were allegedly recovered from the possession of co-accused Kuldeep Singh pursuant to his disclosure statement and not even a single stolen item was recovered from the possession of the petitioner. Learned counsel has, therefore, urged that in the facts and circumstances, since the petitioner has now been in custody since 10.02.2022 and after the charges were framed not even a single prosecution witness out of the 29

cited has been examined, further incarceration of the petitioner would not serve any useful purpose.

3. Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, has submitted that no doubt the petitioner was not named in the FIR in question nor any stolen article recovered from his possession, however, it had come in the extra judicial confession of co-accused Paramjit Kaur that her father-in-law i.e. the deceased had been keeping an evil eye on her, which fact she disclosed to co-accused Kuldeep Singh with whom she had been in an illicit relationship. Thereafter, in order to teach the deceased a lesson, Paramjit Kaur along with Kuldeep Singh had conspired to eliminate the deceased. When co-accused Kuldeep Singh went to the house of the deceased on the fateful day and committed the crime, he was accompanied by the petitioner. It has been submitted that in the circumstances, the petitioner was evidently a conspirator to the crime in question. It has also been submitted that the next date fixed before the Trial Court is 18.08.2023 when there is a likelihood of the prosecution evidence commencing.

4. On a pointed query put to the learned State counsel as to whether the petitioner is involved in any other criminal case, he, on instructions has replied in the negative.

5. I have heard learned counsel for the parties and perused the material placed on record.

6. The case in hand rests on circumstantial evidence. The motive to commit the crime in question was spelt out in the extra judicial confession suffered by co-accused Paramjit Kaur, who

conspired with her alleged paramour Kuldip Singh to eliminate her father-in-law. In the facts and circumstances as enumerated hereinabove, this Court deems it appropriate to extend the concession of bail to the petitioner as the trial shall take considerable time to conclude.

7. Accordingly, the instant petition is allowed. The petitioner be admitted to bail to the satisfaction of the Trial Court/Duty Magistrate concerned. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

07.07.2023

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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