

2023:PHHC:088666

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

212

CRM M-16033 of 2023

Date of Decision: July 12, 2023

Gursahib Singh @ Sahba

...Petitioner

Vs.

State of Punjab

...Respondent

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

Present : Mr. J.S. Bains, 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. 32 dated 01.02.2021 under Sections 302 and 34 IPC registered at Police Station B Division Amritsar, District Amritsar (Annexure P-1).

2. The FIR in the present case was registered on the basis of statement made by Dayal Singh son of Sucha Singh, who alleged that on 31.01.2021, his younger brother Kuldip Singh had gone from village to Amritsar to drive his auto rickshaw. At about 11.30 p.m., the complainant got an information from the driver of an ambulance on his mobile phone that some unknown person had injured his brother by hitting him with sharp edged weapon at Tandoora Wala Chowk and asked him to reach civil hospital as his brother was serious. On getting this information, the complainant alongwith Chanpreet Singh,

Ex-Sarpanch and other villagers reached civil hospital and came to know that his brother had died due to the injuries on his neck caused by some sharp edged weapon. With these averments, the FIR in the present case was registered.

3. During the course of investigation, on 07.04.2021, Dayal Singh got recorded his supplementary statement to the effect that he had come to know from his own sources that his brother and Gursahib Singh @ Saba, petitioner were roaming together on 31.01.2021 in the night. Gursahib Singh @ Saba had visited their house many times and had to return the money to his brother Kuldeep Singh regarding which he had told him many times. As such, Gursahib Singh @ Saba had killed his brother due to said reason.

4. Learned counsel for the petitioner contends that the petitioner was falsely involved in the present case only on the basis of the suspicion. In fact, Kuldeep Singh (since deceased) was known to the petitioner and was killed by certain unknown persons. The petitioner was arrested in the present case on 22.04.2021, only on suspicion and later on the recovery of *kirch* (sharp edged weapon) was planted on him. He further submits that during the course of trial, statements of PW1 Nirmal Singh, PW2 Pargat Singh and PW3 Dyal Singh, complainant were recorded and all the three material witnesses had turned hostile and he had placed on record the copies of the said statements as annexures P-2 to P-4. Learned counsel contends that in the present case, he was implicated on the basis of the statement made

by Dyal Singh, complainant, who had refused to support the prosecution case, while appearing as PW3. PW3 Dyal Singh clearly stated that the petitioner was not the person, who had committed the murder of his brother Kuldeep Singh. Still further, learned counsel further submitted that since all the material witnesses have already been examined and he is not in a position to influence the witnesses, he deserves the concession of bail.

5. On the other hand, the learned State counsel has vehemently opposed the bail application filed by the petitioner by filling a status report by way of an affidavit of the Assistant Commissioner of Police, East, Amritsar City. The learned State counsel submits that the petitioner is the main accused and had killed Kuldeep Singh by attacking on his neck with *Kirch*. However, the learned State counsel submits that the *Kirch* recovered from the present petitioner was not blood stained.

6. I have heard learned counsel for the parties and perused the case file very carefully.

7. It is not in dispute that the petitioner is in custody since 22.04.2021 and is in custody for the last about more than 02 years and 02 months. The prosecution has already examined PW1 Nirmal Singh, PW2 Pargat Singh and PW3 Dyal Singh, complainant and all the three witnesses have not supported the case of the prosecution and there are bleak chances of conviction of the present petitioner. Apart from that till now, the prosecution could not lead evidence, which

may prove the involvement of the petitioner in the alleged crime. Still further, any further incarceration of the petitioner in judicial custody would be violative of his right to speedy trial enshrined 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.

9. Needless to say that above observations are made only for the limited purpose of deciding the bail application and may not be construed as an expression of opinion on the merits of the case.

July 12, 2023

( N.S.SHEKHAWAT)

amit rana

JUDGE

Whether reasoned/speaking

:

Yes/No

Whether reportable

:

Yes/No