

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

Date of Decision:-18.07.2023

CRM-M-17624-2023

Mohan Mahato.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

AND

CRM-M-20654-2023

Tarsem Singh.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Yashpal Thakur, Advocate for the Petitioner
(in CRM-M-17624-2023).

Mr. Kuldip Sheoran, Advocate for
Mr. Lalit Singla, Advocate for the Petitioner
(in CRM-M-20654-2023).

Ms. Ramta K Chaudhary, Deputy Advocate General, Punjab.

JASJIT SINGH BEDI, J.(ORAL)

By this order I shall dispose of both the aforementioned petitions as the same have arisen out of one and the same FIR.

2. The prayer in these petitions under Section 439 Cr.PC is for the grant of regular bail in case FIR No.75 dated 27.04.2022 under Sections 302

(379, 34, 120-B, 201 IPC added later on) registered at Police Station Amloh, District Fatehgarh Sahib, Punjab.

2. The brief facts of the case are that the statement of Tarsem Singh was recorded to the effect that he had two sons Harmanpreet Singh and Gurpreet Singh and his wife Archana (deceased) was a housewife. On 27.04.2022 his son Gurpreet Singh made a telephonic call to him stating that Archana his wife was not opening the main gate of the house and when he (Gurpreet) entered the house after scaling the wall he saw his mother lying in the kitchen. On this he (complainant) reached home and saw that his wife Archana was lying in the kitchen area and had been strangled. Her ear ring and gold chain were missing. The main gate of the house was locked but the rear gate was open. He suspected that some unknown persons had caused her death by strangulation.

Based on the said complaint the instant FIR came to be registered. During the course of the investigation a statement under Section 161 Cr.PC of one Inspector Sewa Singh was recorded on 22.06.2022 wherein he stated that Binchu Dass (since granted bail vide order dated 28.03.2023 passed in CRM-M-51686-2022) and Phool Babu Paswan (since granted bail vide order dated 25.05.2023 passed in CRM-M-25701-2023) made an extra judicial confession before him stating that they had killed the woman at the instance of her husband Tarsem Singh (complainant)/petitioner in CRM-M-20654-2023 for which they had received money.

3. The Counsel for the petitioner-Mohan Mahato contends that the petitioner is not named in the FIR. His name has figured first time in the statement of Inspector Sewa Singh who on 22.06.2022 had stated that Binchu Dass and Phool Babu Paswan had made an extra judicial confession

before him admitting their guilt stating that they along with Mohan Mahato had committed the offence at the instance of Tarsem Singh. It is his contention that such kind of a confession is an extremely weak piece of evidence and in the absence of any corroborative evidence, the petitioner was entitled to the grant of bail, more so when he had been in custody since 28.06.2022 and only 03 out of total 29 witnesses had been examined so far.

4. The Counsel for the petitioner-Tarsem Singh while reiterating the arguments raised by the counsel for the petitioner-Mohan Mahato contends that the petitioner is in custody since 22.06.2022 and being a first time offender was entitled to the concession of bail more so when two of his co-accused have been granted the similar concession.

5. The Counsel for the State on the other hand contends that the nature of allegations did not entitle the petitioners to the grant of bail. The extra judicial confession cannot be considered to be a weak piece of evidence as has been sought to be pleaded. He however admits the period of custody, the stage of Trial as also the fact that the co-accused Binchu Dass and Phool Babu Paswan have been granted the concession of bail.

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

7. Admittedly, the only piece of evidence available against the petitioners is the extra judicial confession allegedly made by the co-accused before Inspector Sewa Singh on 22.06.2022, almost 02 months after the occurrence. The evidentiary value of the said statement shall be a matter of adjudication during the course of the Trial. The petitioners are in custody since 28.06.2022 and 22.06.2022 respectively and only 03 out of 29 prosecution witnesses have been examined so far. Therefore, as the Trial was not likely to be concluded in the near future, their further incarceration is not required more so when their co-accused Binchu Dass and Phool Babu

Paswan have been granted the concession of bail.

8. Thus without commenting on the merits of the case, the present petition is allowed and the petitioners-Mohan Mahato son of Sh. Jokhu Mahato and Tarsem Singh son of Balvir Singh are ordered to be released on bail subject to theirs furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

9. The petitioners shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that they are not involved in any other crime other than the present case. They shall also furnish their home addresses along with their mobile phone numbers and that of their family members to the investigating agency.

10. In addition, the petitioners (or anyone 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 trial without sufficient cause.

11. The petitions stand disposed of.

(JASJIT SINGH BEDI)
JUDGE

July 18, 2023
Vinay

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