

2023:PHHC:094291

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IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Date of Decision: July 25, 2023

1. CRM-M-22606 of 2023

Pawandeep

...Petitioner

Versus

State of Punjab

...Respondent

2. CRM-M-23212 of 2023

Jaskaran Singh @ Jassa @

Jaskaran Mahi & anr

....Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. S.S. Saron, Advocate for the petitioners.

Mr. M.S. Nagra, AAG, Punjab.

DEEPAK GUPTA, J.

This order shall dispose of two petitions titled above, both filed under Section 439 Cr.P.C as in both of them, petitioners seek grant of regular bail in case FIR No.57 dated 08.09.2019 registered at Police Station Aur, District SBS Nagar, under Sections 302 and 201 IPC (Sections 120B, 364 and 34 IPC added later on).

2. (i) As per the prosecution case, on 08.09.2019 a patrolling police party found dead body of a woman burning in sugarcane fields on the link road to Village Burj Tehal Dass from Phillaur. FIR was lodged against unknown persons. Physical evidence was collected and sent to FSL. Dead body was sent to Government Hospital, Nawanshahr for identification. On 11.09.2019, Varinder Kumar approached the Police and identified the dead body to be that of his daughter Harshita Heer aged 17 years and 8 months.

(ii) Said Varinder Kumar got recorded his statement as per which, Jaskaran Singh alias Jassa (one of the petitioner in CRM-M-23212 of 2023) used to reside in the house of his neighbour Hussan Lal. Pawandeep (petitioner in CRM-M-22606 of 2023); and Manoj Banga (other petitioner in CRM-M-23212 of 2023) used to visit said Jaskaran Singh. He (Varinder) disclosed that in the morning of 06.09.2019, when they woke up in the morning, they found Harshita Heer missing. Search was made at own level but report was not lodged. While leaving home on the night of 05/06.09.2019, Harshita Heer had taken away lot of valuables like gold articles, mobiles, watches, Euros etc. Varinder pointed his suspicion on said Jaskaran, Pawandeep and Manoj, who in conspiracy with Nachattar Kaur wife of Hussan Lal had committed murder of his daughter Harshita Heer by setting her body on fire and tried to dispose of the body, in the greed for valuable items and money of deceased Harshita.

(iii) Dead body was handed over to the relatives after getting conducted post mortem examination. After PME, cause of death was reserved till receipt of viscera report, which was sent for chemical examination. The final report filed by the Police under Section 173 Cr.P.C., reveals further that all the three suspects i.e. Jaskaran, Pawandeep and Manoj Banga were arrested on 11.09.2019 itself. They were interrogated. Jaskaran disclosed the involvement of one more friend Karan apart from Manoj Banga and Pawandeep. According to him, he had developed friendship with Harshita Heer but as she had started talking to other boys, so he left the friendship. Talks again started

about three months ago. He was told about 20 days back by Harshita Heer that her uncle was keeping bad eye on her and so she wanted to leave the home, otherwise she will commit suicide and he (Jaskaran) will be falsely implicated. Feeling frightened, he disclosed this fact to his friends Manoj, Pawandeep and Karan. They hatched conspiracy to murder Harshita Heer and dispose of her body. On the night intervening 05/06.09.2019, Manoj Banga and Karan brought Harshita on their motor-cycle with an intention to kill her and throw the dead body in canal but feeling frightened, they could not do so and took Harshita to Hotel Heaven Hut near Goraya. When he (Jaskaran) returned on 06.09.2019 and went to the Hotel, he noticed the valuables, money and mobile etc., with Harshita Heer, which she had brought in a bag. On 07.09.2019, he along with Manoj and Pawandeep came to Village Bigowal. Pawandeep and Karan brought diesel in a can. Harshita was brought from the hotel by Manoj Banga and Pawandeep and then Pawandeep kept supervision by standing on the road; whereas he (Jaskaran) gave 3-4 blows of kirpan to Harshita Heer and then he along with Manoj strangulated her throat and mouth and killed her. All three of them then poured diesel on the dead body and set her on fire. They left the spot taking bag of Harshita Heer and on the way threw some articles from the bag. Similar disclosure statements were made by Pawandeep and Manoj. Later on, kirpan used in the crime besides belongings of the deceased including mobile sets were recovered at the behest of Jaskaran.

(iv) During further investigation, accused Jaskaran Singh @ Jassa, Karanjit Singh @ Karan and Manoj Banga @ Money were found

to be juvenile and so, they were produced before the Juvenile Justice Board. Nachattar Kaur and Deepa were found innocent. After concluding the investigation, report under Section 173(2) Cr.P.C. qua petitioner-Pawandeep was filed before Area/Illaq Magistrate; whereas the final report of enquiry qua petitioners Jaskaran Singh @ Jassa @ Jaskaran Mahi, Manoj Banga @ Money and co-accused Karanjit Singh @ Karan was filed before Juvenile Justice Board.

3. The State reply also reveals that the Juvenile Justice Board committed the case of Jaskaran Singh @ Jassa @ Jaskaran Mahi, Manoj Banga @ Money and Karanjit Singh @ Karan to the Children Court vide order dated 19.12.2019; whereas case qua Pawandeep was also committed to the Court of Sessions. Charges have already been framed and out of 19 witnesses, 7 have already been examined, 6 have been given up and rest 6 witnesses are yet to be examined.

4. It is contended by learned counsel for the petitioners that all three of them have been falsely implicated on the basis of a concocted and fabricated story, there being no material evidence. Attention is drawn towards the fact that none of the petitioners are named in the FIR; that despite the fact that deceased Harshita went missing on the night intervening 05/06.09.2019, no missing report was lodged, till the present FIR on 11.09.2019. It is submitted that at the time disclosure statement of Jaskaran Singh @ Jassa was recorded, he was a juvenile and no independent witness was joined. Attention is drawn towards the alleged disclosure statement, as per which Jaskaran Singh @ Jassa had given 3-4

blows with Kirpan to deceased Harshita and then he along with Manoj Banga had strangled the deceased. However, the final cause of death as given by the Doctor reveals the cause of death to be '*deep burns of the middle part of the body and underlying organs and tissues*'. Ld. counsel contends that in the postmortem report, no injury due to cut by kirpan nor any asphyxiation is shown to be the cause of death. It is further contended that no evidence has been collected with regard to any CCTV in the hotel, where the deceased was allegedly taken earlier nor any bill is obtained nor any enquiry has been conducted from any hotel staff or the petrol pump, showing the falsity of the alleged disclosure statement.

5. Still further, attention is drawn by ld. counsel for the petitioners towards statement of PW1 Varinder Singh, father of the deceased made before the trial Court on 03.03.2023, giving a different version than contained in the FIR. As per this testimony made before the Court, he had never seen Harshita with any of the accused-petitioners; that he never made any complaint against the petitioners prior to this case; that he did not see deceased taking away any articles; that he did not know as to what was taken away by deceased Harshita; and he never saw Harshita talking with any of the accused on mobile.

6. It is submitted that petitioners are under incarceration for approximately last 4 years despite being innocent and that trial is likely to take time to conclude and so, in all these circumstances they be allowed bail.

7. Ld. State counsel has opposed the bail petitions by pointing

out towards the gruesome murder of deceased Harshita, the nature and gravity of the offence and the fact that most of the prosecution witnesses have already been examined.

8. Having regard to the submissions made by learned counsel for the petitioners and the fact that the petitioners are in custody for the last more than 3 years and 10 months and trial is likely to take time to conclude, but without commenting anything on the merits of the case, all the three petitioners i.e. Pawandeep, Jaskaran Singh @ Jassa @ Jaskaran Mahi and Manoj Banga @ Money are allowed bail. They are directed to be released on bail on their furnishing requisite bail bonds & surety bonds to the satisfaction of the learned trial Court/duty magistrate.

A photocopy of this order be placed on the file of other connected case.

July 25, 2023
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(DEEPAK GUPTA)
JUDGE

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