

215 **IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-25780 of 2021(O&M)

Date of Decision: 13.03.2023

Gurvinder Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

**Present:- Mr. Karan Brar, Advocate
 For the petitioner.**

Mr. C.L. Panwar, Addl. AG Punjab.

KARAMJIT SINGH, J.

The present petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case having FIR No. 119 dated 29.07.2019, registered under Sections 460, 302, 454, 381, 201 and 120-B IPC at Police Station Lalru, District SAS Nagar, Mohali.

The allegations in brief are that complainant Vinay Prajapat reported to the police that his brother Vijay Prajapat was working as a Security Guard in Himalayan Breweries Limited at village Jastana Khurd. That on 29.07.2019 he came to know from petitioner Gurvinder Singh (another Security Guard) that some unknown persons committed theft in the factory and also caused injuries to Vijay Prajapat. On reaching the premises of said factory, complainant found that his brother Vijay Prajapat was lying dead. On the basis of the statement of complainant, police registered FIR against unknown persons who committed murder of his brother Vijay Prajapat. During investigation aforesaid Gurvinder Singh (petitioner) was arrested.

The counsel for the petitioner submits that the petitioner is in custody for the last more than 03 years and 06 months and the entire case is based on circumstantial evidence and it will take considerable time for the trial to conclude as till date only 19 witnesses have been examined on behalf of the prosecution. The counsel for the petitioner further submits that as per prosecution version, the petitioner got recovered one sharp edged weapon. The counsel for the petitioner further submits that the alleged occurrence was not witnessed by the complainant Vinay Prajapat who appeared in the witness box as PW1. The counsel for the petitioner further submits that as per prosecution version, the petitioner suffered extra judicial confession before one Shiv Kumar regarding his involvement in murder of Vijay Prajapat. That, however, said Shiv Kumar while appearing in the witness box as PW8 failed to support the case of the prosecution and the copies of their testimonies are Annexures P-4 and P-5. The counsel for the petitioner further submits that the petitioner is having no criminal history and has been falsely implicated and no purpose is going to be served by keeping the petitioner in custody for any longer period.

The present petition is contested by the State counsel who submits that the petitioner was also working as a Security Guard in the same factory where the deceased was working and the petitioner caused murder of Vijay Prajapat. However, the State counsel has not disputed the fact that the petitioner is in custody for the last more than 03 years and 06 months and is having no criminal antecedents and that material witnesses are already examined and in total 19 witnesses are examined out of total 28 witnesses by the prosecution. The State counsel has also not disputed the fact that FIR in this case was registered against unknown persons on the basis of statement

of complainant, who had not witnessed the occurrence in question. The State counsel has also not refuted the fact that the entire case is based on circumstantial evidence and PW 8 Shiv Kumar before whom extra judicial confession was made by the petitioner, has not supported the case of the prosecution.

I have considered the submissions made by counsel for the parties.

In the given circumstances, it will take considerable time for the trial to conclude and as the material witnesses are examined, there is no apprehension that if released on bail, the petitioner is going to influence them. Further the entire case is based on circumstantial evidence as FIR was registered against the unknown persons who committed murder of Vijay Prajapat and as per prosecution version the petitioner suffered extra judicial confession before Shiv Kumar but the said person while appearing in the witness box as PW8 has retracted from his previous statement.

For the foregoing reasons, no purpose is going to be served by prolonging the judicial custody of the petitioner. Thus, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

13.03.2023
Jiten

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No