

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

221

CRM-M-26370-2023

Date of Decision: 29.05.2023

Fateh Singh Alias Fatehpal Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. S.S. Sidhu, Advocate for the petitioner

Ms. Guramrit Kaur, DAG, Punjab
(assisted by ASI Baljinder Singh)

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Section 439 of Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') is seeking concession of regular bail in FIR No.129 dated 20.09.2022 under Sections 306 & 34 of Indian Penal Code, 1860 (for short 'IPC') registered at Police Station Raman, District Bathinda.

2. The case of prosecution is that complainant lodged a complaint alleging that his sister Jagjit Kaur got married with Fatehpal Singh about 15 years back. His sister had got 3 Acres of land from her *Bua Saas* (sister of father of husband of the deceased). Fatehpal Singh sold his parental house for a sum of Rs.9 Lacs as he was constructing a new house in his agricultural land. He wanted to sell the agricultural land of her sister which was opposed by her. Fatehpal Singh and his mother started physically assaulting her. On 19.09.2022, he went to meet his

sister Jagjit Kaur at her village where she told him that Fatehpal had earlier sold their house at a very cheap price and now he wants to sell her agricultural land. Fatehpal is pressurizing as well as assaulting her. She is fed-up with the mal-treatment and would commit suicide. He spoke with Fatehpal but he told him that he wanted to build a new house and needs money. He (Fatehpal) asked him to tell his sister to sell the agricultural land and hand over the money to him otherwise, he would maltreat her. On 20.09.2022, he received a phone call on his mobile from Fatehpal informing the death of his sister.

3. Mr. S.S. Sidhu, learned counsel for the petitioner *inter alia* contends that 3 Acres of land mentioned in the FIR was owned by the petitioner and he had transferred the same to the deceased. It is factually incorrect that land was transferred by *Bua Saas* in favour of the deceased. These facts collectively prove that entire FIR is false and fabricated. The marriage of the deceased was solemnized with the petitioner about 15 years back and they are having 14 years old son. The petitioner is in custody since 25.09.2022. There is no suicide note. This Court vide order dated 11.05.2023 passed in CRM-M-9142-2023 has granted bail to a co-accused.

4. Custody Certificate dated 25.05.2023 filed by respondent-State is taken on record. As per custody certificate, the petitioner is in custody since 25.09.2022 and at present no other case is pending against him.

5. The State had filed reply (Annexure P-3) in CRM-M-9142-2023. As per the said reply, 3 acres of land was transferred in the name of deceased by the petitioner, thus, allegation of complainant that it was transferred by *Bua Saas* of the deceased in her name is *prima facie* incorrect.

6. Learned State counsel submits that police report has already been filed, however, charges are yet to be framed. She further submits that there are 18 prosecution witnesses.

7. In the case in hand, the petitioner is in custody since 25.09.2022 and at present no other case is pending against him. Police report under Section 173 of Cr.P.C. stands filed and charges are yet to be framed. There is no suicide note. No recovery is to be effected from the petitioner. Co-accused has been granted bail by this Court vide order dated 11.05.2023 passed in CRM-M-9142-2023. There are 18 prosecution witnesses, thus, petitioner cannot be kept in custody for indefinite period. The Trial Court yet has to return definite findings on the disputed issues, thus, there is abysmally low possibility of conclusion of trial in near future. As prosecution has right to arrest, investigate the matter and restrain an accused from manipulating or winning over witnesses, similarly accused in view of Article 21 of the Constitution of India has right to defend himself and put forth his stand which cannot be possible while in custody. The prosecution has not led any convincing/plausible documentary or oral evidence indicating possibility

of petitioner being flee from justice or tampering the evidences or winning over/threatening the witnesses.

8. In view of afore-stated facts and circumstances, this Court is of the considered opinion that present petition deserves to be allowed and accordingly allowed. The petitioner is ordered to be released on bail subject to conditions as may be imposed by Trial Court/Illaqa/Duty Magistrate concerned.

9. If the petitioner or his family members/associates make any attempt to threat/intimidate the witnesses in the present case, the State would be at liberty to move an application for cancellation of bail granted by this order.

10. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and Trial Court shall proceed without being prejudiced by observations of this Court.

(JAGMOHAN BANSAL)
JUDGE

29.05.2023
Mohit Kumar

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>