

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

215

CRM-M-29448-2023

Date of decision: 19.09.2023

Jaswant Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Rishu Mahajan, Advocate
for the petitioner.

Mr. Amit Rana, Sr. DAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner in the instant (second) petition is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.139 dated 11.11.2022 under Sections 304/34 of the IPC registered at Police Station Mehatpur, Jalandhar.

2. Learned counsel for the petitioner inter alia contends that a totally false and fabricated version has been brought forth by the investigating agency while presenting challan before the Trial Court. Learned counsel while drawing the attention of this Court to the FIR which has been annexed as Annexure P-1, has submitted that it was alleged therein by the mother of deceased Gurmeet Singh that in the evening of 10.11.2022, he had left his house for playing volleyball in village Vehra, however, he did not return and on the following day in the morning his dead body was found lying by her other son with his face down. The dead body of the deceased bore some injury marks.

Learned counsel has further submitted that in the FIR no suspicion

much less by way of any whisper had been raised against the petitioner and instead it had been stated that the deceased had been killed by unknown persons. Learned counsel has argued that once no suspicion had been raised against any person much less the petitioner, there could have been no occasion for him to have gone and made any extra judicial confession before one Raj Kumar, son of the Sarpanch, wherein after he was arrested and made an accused in the present case. It has also been submitted that the story as propounded by the investigating agency was that while the accused and the deceased were consuming intoxicants, there was some altercation between them on account of which the petitioner pushed the deceased against a wall as a result of which he sustained a head injury and died. Learned counsel has submitted that this is totally contrary to the Post Moretem Report, (annexed as Annexure P-3) wherein no external injury on any part of the body of the deceased stands reflected. It has been submitted that as per the Chemical Examiner Report (Annexure P-4) aluminium phosphide was found in the viscera and other case property which was yet again at variance with the case of the prosecution. Learned counsel has asserted that there was, thus, absence of any cogent evidence on record to link the petitioner with the death of the deceased. He has further submitted that the petitioner has been in custody since 20.11.2022 and till date only 01 out of the 19 prosecution witnesses has been examined; despite the complainant being summoned to depose before the Trial Court on a number of dates, she has not been putting in appearance.

3. Per contra, learned State counsel while opposing the prayer

made by learned counsel for the petitioner, on instructions from ASI Dwarka Dass, has not been able to dispute the absence of any injury on the person of the deceased, except for some clotted blood on his lips. However, it has been asserted that the petitioner had made an extra judicial confession before Raj Kumar qua his role in the murder of the deceased, pursuant to which the petitioner was arrested. Learned State counsel has not disputed that the complainant has not been appearing before the Trial Court to get her evidence recorded and the case is being adjourned repeatedly due to the same.

4. I have heard learned counsel for the parties and perused the material placed on record.

5. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner as the trial would take considerable time to conclude.

6. Accordingly, the instant petition is allowed. The petitioner be admitted to bail to the satisfaction of the Trial Court/Duty Magistrate concerned. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

19.09.2023

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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