

Sr. No. 222 2nd case

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-30839-2023 (O&M)

Date of decision: 19.09.2023

Narian Singh @ Narayan Singh

...Petitioner

Vs.

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Ramnish Puri, Advocate,
For the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

ARUN MONGA, J. (ORAL)

After being declined bail by the trial Court, petitioner before this Court seeks his release as an undertrial in a case bearing FIR No.605 dated 15.10.2021, registered under Sections 302, 109, 114, 201, 148 read with Section 149 of the Indian Penal Code, 1860 (for short 'IPC') and Section 3 (2) (v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'SC/ST Act') at Police Station, Kundli, District Sonipat.

2. Succinct factual background, as noted in order dated 23.08.2022 (Annexure P-4) passed by learned trial Court, reads as under:-

3. The brief facts of the prosecution case are that on 15.10.2021 ASI Sandeep was employed at Police Station Kundli and at about 5.00 a.m. he received the information in the police station that in "Kisan Movement", the "Nihangs" had amputated the hand of a person and hanged him on iron barricade by tying with a rope. On which information he accompanied by Constable Pardeep and Constable Somdutt reached the spot. One person was hanging on the iron barricade on the road towards Singhu Border in the midst of Kisan Movement who had died. Many "Nihangs" were collected around that. He tried to interrogate and nobody had cooperated nor they had permitted them to remove the dead body of that person. Attempt was made to identify but it could not be identified. Unknown persons had murdered that person by amputating his hand and foot. Legal action be taken against those persons. The authorities as well as FSL team were duly informed. Offence under Section 302/34 IPC was made. The investigation was carried out by SI Shamsher Singh. Spot site plan was prepared. Proceedings u/s 174 Cr.P.C. was also carried out. The unknown deceased was subjected to post mortem examination from Civil Hospital. The dead body was kept in the

hospital for 72 hours for identification. The parcels were taken into police possession from the doctor. During investigation it was found that unknown person was belonging to Scheduled Caste community at which Section 3 (2) clause v of SC/ST Act was added. Thereafter, the investigation was carried out by DSP. During investigation Sarabjit Singh son of Kashmir Singh resident of village Bithwa P.S. Hargobindpur, Tehsil Batala, District Gurdaspur, Punjab was arrested on finding the evidence of his involvement on 15.10.2021 and he was confined in the lock up after medicolegal examination. The deceased was identified as Lakhbir Singh @ Tita son of Harnam Singh (majhabi Sikh) r/o Chima Kalan, P.S. Sarai Aman khan District Taran taran Punjab on 16.10.2021.

The dead body was handed over to the family members for cremation. Accused Sarabjit Singh son of Kashmir Singh resident of village Bithwa P.S. Hargobindpur, Tehsil Batala, District Gurdaspur, Punjab got recorded his disclosure statement and he got recovered the sword used in the commission of the offence as per his disclosure statement during his police remand on 16.10.2021. Bhagwant and Preet Singh were also arrested on 16.10.2021 on finding the evidence of their involvement. Narain Singh aforesaid was arrested on 17.10.2021 on finding the evidence of his involvement. Narain Singh produced the sword and the clothes worn by him at the time of incident and also the mobile phone which were taken into police possession. Bhagwant Singh, Gobindpreet Singh and Narain Singh got recorded their respective disclosure statements. During investigation, it was found that the evidences were tampered with, therefore, Section 201 IPC and Section 25 of the Arms Act were found out and were added accordingly. Bhagwant Singh and Gobindpreet Singh got recovered the clothes which they were wearing at the time of incident which were taken into the police possession. The places of occurrence were got demarcated from them. Accused Narain Singh had got demarcated the place where he had amputated the leg of deceased Lakhbir. Sarabjeet Singh got demarcated the place where he had amputated the hand of Lakhbir Singh. From the place of occurrence the earth soaked in the blood was taken into police possession. During investigation, the offence under Sections 148, 149, 109, 114 IPC was also found out. Section 34 of IPC was dropped and Section 148, 149, 109, 114 IPC were added. DVR of CCTV camera installed at the place of occurrence was also taken into police possession. The police remand of accused Sarabjeet Bhagwant, Gobindpreet Singh and Narain Singh was obtained by producing them before the court. They were interrogated. After completion of their police remand they were remanded to judicial custody. On 29.10.2021 the case property and the parcels with deposited with CFSL Panchkula. Accused Aman had by conspiring with his companions had murdered the deceased in a barbaric manner and even the mobile of the accused is also to be got recovered from accused Aman so that it may be ascertained that with whom he had talked on the date of occurrence. During investigation, Sarabjeet Singh had got recorded in his disclosure statement that he had amputated the hand of Lakhbir Singh on the instigation of Aman Singh. Similarly, Bhagwant and Gobindpreet had recorded their disclosure statement that Sarabjeet Singh had amputated the hand of Lakhbir at the instigation of Aman Singh which resulted in the death of Lakhbir Singh @ Cheeta. Challan against accused Sarabjeet, Bhagwant Singh, Govind Preet Singhand

Narain Singh has been submitted in the court on 04.01.2022. Accused have been actively participated in the murder of deceased Lakhbir Singh. It is prayed that the applicants-accused be not released on bail.”

3. Learned counsel for the petitioner submits that name of the petitioner was not mentioned in the FIR. Nothing incriminating was recovered from the petitioner on the basis of disclosure statement and prosecution has planted some articles which were not recovered from him. Investigation is complete. Challan has been presented. Petitioner is thus not required for custodial interrogation. All the 39 witnesses of prosecution are yet to be examined in the present case. The trial of the case will take time to conclude and no useful purpose would be served by detaining the petitioner in further preventive custody.

4. Per contra, learned State counsel, assisted by police official present opposes the bail petition. He refers to para No.8 of the reply already filed on behalf of respondent-State of Haryana, which is reproduced hereinbelow:-

“8. That there is sufficient evidence in the present case to show the complicity of present petitioner/accused with the crime in question. Petitioner is involved in a brutal murder of the person, who belonged to SC/ST community. It was the petitioner/accused, who had chopped off the right leg of the deceased by giving repeated sword blows on his right leg on the pretext of disregard of “Granth Sahib” by the deceased. Petitioner/accused chopped off the right leg of the deceased with his sword and thereafter, deceased was tied/hanged with the police barricade. On 17.10.2021, petitioner/accused Narian Singh @ Narayan Singh had surrendered in the Court at Amritsar and was formally arrested in the present case and got recovered the sword used in committing the crime and clothes having blood stained worn by him at the time of occurrence and his mobile phone having SIM cards No.98151600505 and 9877543116. All these facts have also been admitted by petitioner in his disclosure statement, pursuant to which, he got demarcated the place, where he had amputated the leg of deceased Lakhbir. In this manner, there is sufficient evidence against the petitioner to connect him with the crime in question. The case is pending for arguments on charge for 22.09.2023 and if enlarged on bail, petitioner can tamper with the prosecution evidence by influencing and intimidating the witnesses and he can also hamper the trial by absconding from the process of law. As such, merely on the basis of longevity of incarceration, petitioner is not entitled to seek the concession of bail as a matter of right. Thus, keeping in view the seriousness of offence and facts and circumstances of the case, he is not entitled to the relief of bail as claimed for.”

5. I have heard rival contentions of learned counsels for the parties and have gone through the case file.

6. No doubt, petitioner is not named in the FIR, as is the contention of his counsel, but the investigation connects him with the crime in question.

7. It transpires that specific role has been ascribed to petitioner. It is settled position in law that unfathomable appreciation of evidence is not permissible at the stage of bail and the material is to be assessed tentatively. From the tentative assessment of material available on record, it is *prima facie* established that petitioner is connected with the commission of offence; as per the investigation report he had chopped off the right leg of deceased with his sword. Charges are yet to be framed. In the premise, I find force in the contention of learned State counsel that in case petitioner is let out at this stage, there is every possibility of his tampering with evidence and influencing the witnesses and/or fleeing from trial proceedings.

8. As an upshot, no indulgence is warranted by this Court to grant concession of bail to petitioner at this stage. Instant bail petition is thus dismissed.

9. It is made clear that any observations made and/or submissions noted hereinabove shall not have any effect on merits of the case as the same are limited to the disposal of the bail application alone and learned trial Court shall proceed in accordance with law without being influenced by this order.

10. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

19.09.2023
Vandana

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No