

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

(209)**CRM-M-33338-2023****Date of Decision: 12.09.2023**

Lakhwinder Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Navkiran Singh, Advocate, for the petitioner.

Mr. Athar Ahmad, DAG, Punjab.

Mr. Nirmaljit Singh Sidhu, Advocate, for the complainant.

HARKESH MANUJA, J.(ORAL)

1. By way of second application filed under Section 439 Cr.P.C., prayer has been made for grant of regular bail in case FIR No.95 dated 29.06.2022 under Section 302 read with Section 34 IPC, registered at Police Station Subhanpur, District Kapurthala.

2. In the present case, allegations levelled against the petitioner are that he alongwith his brother namely Harjinder Singh and wife Sukhwinder Kaur dragged his brother Jasvir Singh (since deceased) inside the house of one Karamjit Singh @ Pamma and after locking the gate, gave beatings to him and threw him outside the house near motor resulting into his death, followed by registration of aforementioned FIR.

3. Petitioner approached the trial Court seeking concession of regular bail, however, the same was declined vide order dated 07.10.2022. The same was assailed before this Court on an earlier occasion vide **CRM M-61040-2022 titled as Lakhwinder Singh and Another Vs. State of Punjab,**

wherein, the prayer qua the petitioner was not pressed as recorded vide order

dated 08.02.2023, however, the other petitioner namely Sukhwinder Kaur i.e.wife of the present petitioner was granted concession of regular bail by this Court vide order dated 11.04.2023.

4. This is how, by way of present second petition, prayer has again been made for grant of regular bail to the petitioner. While referring to the report of the chemical examiner dated 05.02.2022, learned counsel for the petitioner submits that as per it the exact cause of death cannot be ascertained in this case, however, possibility of death due to cardiac arrest resulting from hypertensive heart disease and marked atherosclerosis cannot be ruled out. He thus, submits that at best the present may be a case falling under Section 302 Part-II IPC and not Section 302 IPC, against which the petitioner has already remained in custody for a period of more than 1 year and 7 months and extension of his custody was uncalled for. He also submits that the investigation having been concluded with the filing of *challan* followed by framing of charges and only 1 witness been examined out of the total 13 cited by the prosecution, trial was likely to take some time and no useful purpose was going to be served by keeping the petitioner behind the bars. He further submits that in the present case, post examination of PW-1 namely Satvir Kaur (complainant), one additional accused namely Karamjit Singh @ Pamma has been summoned in exercise of powers under Section 319 Cr.P.C., by the trial Court who is yet to appear and thus, the trial is again going to take some time. Learned counsel for the petitioner also relies upon the order dated 11.04.2023 passed in **CRM M-61040-2022 titled as Lakhwinder Singh and Another Vs. State of Punjab**, to contend that in the same FIR, co-accused namely Sukhwinder Kaur i.e. wife of the petitioner has already been granted concession of regular bail.

5. On the other hand, learned State counsel assisted by Sh.Nirmaljit Singh Sidhu, Advocate, representing the complainant submit that a conjoint reading of the FSL report along with the post mortem report is required to be taken into account as per which detection of blood drops on the body as well as right nostril viz-a-viz cloths of the deceased (T-shirt and *Pajama*) has been found. It has also been pointed out that from the sequence narrated in the FIR, it is apparent that the deceased was dragged inside the house of Karamjit Singh @ Pamma by pushing the complainant back and internal injuries were inflicted on the person of deceased who was later thrown outside the house thereby resulting into his death. Learned State counsel also submits that considering the age of the deceased who happened to be around 60 years of age, the injuries inflicted upon the deceased and the manner in which he was dragged inside the house were sufficient to cause his death and the petitioner besides co-accused were deeply conscious of this fact as well as that the injuries inflicted upon the person of the deceased were sufficient to cause his death.

6. I have heard learned Counsel for the parties and gone through the paper book of the case and I do not find much substance in the arguments raised by the learned Counsel for the petitioner. Report of the chemical examiner cannot be looked into in isolation as the same has to be seen along with all other material available on record in the shape of the post mortem report while examining whether the alleged actions of the petitioner and other accused persons could have caused the death of the victim-Jasvir Singh. This Court although cannot go into the detailed analysis of the evidence at this stage as any discussion would affect the trial which is at an initial stage yet the same has to be examined *prima facie* including the mentioning of detention of

his clothes. So far as the argument for seeking parity with the co-accused Sukhwinder Kaur, who is wife of the petitioner, is concerned; in my considered opinion, in a case of physical assault which subsequently led to the death of the victim-Petitioner cannot seek parity with his wife. Allegations made against the petitioner are grave in nature and as per the allegations made in the FIR, on account of a dispute in relation to land, petitioner along with other accused persons give serious beatings to his real brother which led to his death. This is also required to be taken into consideration that many material witnesses are yet to be examined as only complainant has been partly examined till date. As regards the submission about delay in trial on account of summoning of additional accused, it may be pointed out that he namely Karamjit Singh @ Pamma has been directed to appear and surrender before the trial Court as ordered on 05.09.2023 by this Court in CRM-M-44313 of 2013 and in case of his doing so in one week, he has been permitted to be admitted on bail, thus the apprehension in this regard is wholly misplaced.

7. So, in the given circumstances, considering the nature and gravity of offences, role attributed to the petitioner, seriousness of the allegations, his custody period and the manner in which offence has been committed by dragging the deceased inside the house and beaten mercilessly, petitioner does not deserve the concession of grant of regular bail.

8. It is further clarified that nothing stated hereinabove shall be construed as an expression of opinion on merits of the case.

(HARKESH MANUJA)
JUDGE

12.09.2023
anil

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