

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****CRM-M-36079 of 2022(O&M)
Date of Decision: 17.05.2023****Pawanpreet Singh @ Pawani****...Petitioner****Versus****State of Punjab****...Respondent****CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH****Present:- Mr. K.K. Saini, Advocate
For the petitioner.****Mr. Hakam Singh, AAG Punjab.***********KARAMJIT SINGH, J.**

1. The present petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case having FIR No. 173 dated 11.11.2020, registered under Sections 302 read with Section 34 IPC at Police Station Machhiwara Sahib, District Ludhiana.

2. The allegations in nutshell are that complainant Jaspal Singh reported to the police that on 09.11.2020 his son Manpreet Singh left the house and on 10.11.2020 complainant came to know that dead body of his son Manpreet Singh, having injuries, was recovered from Satluj river in area of village Chakli Kasab. Then FIR was registered against unknown persons regarding murder of Manpreet Singh. Thereafter, on 16.11.2020 Gurpreet Singh brother of the deceased got recorded his statement with the police that on day i.e. 16.11.2020 at about 5:30 p.m. he reached near shop of co-accused Kuldeep Singh @ Simma, where said Kuldeep Singh @ Simma was standing outside his shop along with petitioner Pawanpreet Singh @ Pawani

and Gurwinder Singh and all three of them were talking that no one has come to know that after murdering Manpreet Singh @ Sunny they have disposed of his dead body. That on seeing Gurpreet Singh all three of them got perplexed. Gurpreet Singh further made statement to the police that about 5-6 months back some unidentified persons had beaten Kuldeep Singh @ Simma and his brother while deceased Manpreet Singh ran away from there and thereafter Kuldeep Singh @ Simma was of the view that he was beaten due to Manpreet Singh and that he would take its revenge. Gurpreet Singh further made statement to the police that he is sure that murder of his brother was committed by aforesaid three persons namely Kuldeep Singh @ Simma, Gurwinder Singh @ Bawa and Pawanpreet Singh @ Pawani. Accordingly, all the said three persons were nominated as accused and arrested by the police.

3. The counsel for the petitioner, *inter alia*, contends that petitioner has been falsely implicated in the present case which is based on circumstantial evidence and that the petitioner is in custody for the last about 2 years and 06 months and is having no criminal history. The counsel for the petitioner further submits that it is highly improbable that the accused persons were openly talking regarding their involvement in murder of Manpreet Singh, while standing in a public place and that brother of the deceased overheard them while talking so. The counsel for the petitioner further submits that even otherwise as per the status report filed on behalf of the State, the only allegations against the petitioner are that he was driving a car while Kuldeep Singh @ Simma put rope around neck of Manpreet Singh and then the same was pulled by Kuldeep Singh @ Simma and Gurwinder Singh @ Bawa and both of them strangled Manpreet Singh and then the dead body was thrown in Satluj river. The counsel for the petitioner further

submits that there are no specific allegations that the petitioner killed Manpreet Singh. It is further submitted that as per prosecution version only co-accused Kuldeep Singh @ Simma was having motive to kill Manpreet Singh as he was nursing grudge him. The counsel for the petitioner further submits that both the material witnesses namely Jaspal Singh, the complainant and his son Gurpreet Singh are examined but it will take considerable time for the trial to conclude. So, prayer is made that the petitioner be released on regular bail.

4. The present petition is resisted by the State counsel, who submits that all the three accused including the petitioner killed Manpreet Singh and had thrown his dead body in Satluj river which was later on recovered. However, the State counsel has not disputed the fact that the entire case is based on circumstantial evidence and that the petitioner is in custody for the last more than 02 years and 05 months and is having no criminal antecedents and that during trial material witnesses namely complainant Jaspal Singh and his son Gurpreet Singh are examined. The State counsel further apprised the Court that all the other prosecution witnesses remain to be examined.

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

6. Admittedly, the FIR in this case was registered against unknown persons for commission of murder of Manpreet Singh whose dead body having injuries on it was recovered from Satluj river. As per prosecution version, Gurpreet Singh brother of the deceased overheard all the three accused, including the petitioner while they were talking about disposal of the dead body of Manpreet Singh while standing in a public place. The counsel for the petitioner has raised doubt regarding this aspect of

the prosecution story. Further, as per the status report dated 09.12.2022 filed on behalf of the State by way of affidavit of Waryam Singh, Deputy Superintendent of Police, Samrala, it appears that co-accused Kuldeep Singh @ Simma was nursing grudge against the deceased and he wanted to take revenge. Further, as per aforesaid status report, it appears that the petitioner was driving a car in which all the three accused were travelling along with the deceased and Kuldeep Singh @ Simma and Gurwinder Singh used rope to strangle the deceased and then dead body was thrown in Satluj river. Admittedly, complainant and his son Gurpreet Singh are already examined during trial. So, there is no apprehension that if released on bail the petitioner is going to influence them. It appears that till date only 02 witnesses have been examined on behalf of the prosecution out of total 16 witnesses and it will take considerable time for the trial to conclude. The exact complicity of the petitioner in the instant case will be established only after recording of entire evidence during the trial. In the given circumstances, no purpose is going to be served by prolonging the judicial custody of the petitioner who is already in custody for the last about 02 years and 06 months and is having no criminal history.

7. In light of above, 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.

17.05.2023

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(KARAMJIT SINGH)
JUDGE

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