

2023:PHHC:102668

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

218

CRM M-34420 of 2023
Date of Decision: 08.08.2023

Gurjant Singh @ Janta

...Petitioner

Vs.

State of Punjab

...Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

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

Mr. M.S. Bajwa, DAG, Punjab.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has moved the present petition under Section 439 Cr.P.C. with a prayer to grant the concession of regular bail to him in case FIR No. 37 dated 08.03.2020 under Sections 302, 201, 120-B and 34 IPC registered at Police Station City Patti, Tarn Taran (Annexure P-1).

2. Learned counsel for the petitioner argued vehemently that the present case is based on circumstantial evidence and the petitioner has been falsely involved in the present case alongwith his mother Ms.Veer Kaur. As per the FIR, Gurbhej Singh @ Shera, since deceased, was on friendly terms with the present petitioner. At about 11.00 a.m., 24.02.2020, Gurjant Singh @ Janta, petitioner went to their house and took away Gurbhej @ Shera on his motorcycle by saying that they had to go for some personal work at Patti and they would return shortly. However, Gurbhej Singh @ Shera did not return

home till night. Later on, at about 7.30 p.m. on 07.03.2020, one unidentified dead body was found on the northern side of railway crossing, near canal and the complainant and his family members reached at the spot and found that the dead body of Gurbhej Singh @ Shera was lying there. The complainant stated that Gurbhej Singh @ Shera by joining hands with 2/3 unknown persons committed the murder of Gurbhej Singh @ Shera and the dead body was found in the bushes and action was prayed against him. Learned counsel contends that in the present case, Gurbhej Singh @ Shera had died due to taking of overdose of drugs and the petitioner had not committed any crime. As per the learned counsel, the postmortem examination on the dead body of Gurbhaj Singh was conducted on 08.03.2020 and the following injuries were found on his person;-

“Mogots were present on the face, more common on the left side, blackening of the face, leg were seen. Excessive foul smell from the body. Face swollen, abdomen swollen putrefactive blisters present over the abdomen forearms of both left and right sides. No signs of any external injury can be identified because the body was in decomposed state. No signs of internal injury could be seen because of putrefaction. No fracture could be identified”.

3. Thereafter, as per the report of the chemical examiner dated 19.10.2020, no poison was detected in the stomach, lungs, liver, spleen, kidney and blood samples. After receipt of Histopathologist report and the chemical examiner report, the final opinion was rendered by the board of doctors of Civil Hospital, Patti as follows:-

“Final opinion in cause of death vide PMR No. 18/MSB/SSB/MS/CH Patti/2020 dated 08.03.2020.

After conducting autopsy of Gurbhej Singh son of Harpal Singh Village Kairon and going through histopathological report by DR Prabhleen Kaur Senior Resident of Pathology Department GMC Amritsar No. 985/2020 dated 20.11.2020 and Chemical examiner Kharar report No. 3361 dated 24.08.2020 and after discussing with expert from department of forensic GMC Amritsar. The board is unable to reach any conclusion of cause of death in this case. It is worth mentioning that the duration of death of body and conduction of postmortem is more than 10 days and body was decomposed and putrified and no injury marks were identified on the body.”

4. While referring to above referred medical evidence, learned counsel contends that the petitioner had not caused any injuries to the deceased nor he was involved in the death of Gurbhej

Singh @ Shera rather it was apparent that Gurbhej Singh @ Shera had died due to overdose of drugs and not due to the injuries caused by any other person. Learned counsel further contends that the petitioner was arrested in the present case on 14.06.2020 and is in custody for the last more than 03 years and 01 month. He further contends that his mother Ms. Veer Kaur has already been granted the concession of bail by this Court vide order dated 05.02.2021 (Annexure P-5) passed by this Court.

5. Learned counsel for the State has vehemently opposed the prayer by learned counsel for the petitioner on the ground that the petitioner had injected heroine in the body of the deceased and due to which he had died at the spot. Thereafter, the petitioner had thrown the dead body of the deceased in the bushes, in active connivance with his mother.

6. I have heard learned counsel for the parties and perused the record.

7. From the record, it is apparent that it is a case of circumstantial evidence, wherein, no definite opinion has been given by the board of doctors with regard to the cause of death. Apart from that, no injury marks were identified on the dead body and no poison was detected in the viscera of the deceased. Apart from that, the present petitioner has already suffered incarceration for more than 03 years and 01 month and the conclusion of the trial may take

considerable time. Still further, there is no material on record to show that the petitioner is likely to abscond from the process of law or in a position to influence the witnesses and, thus, the present petition deserves to be allowed by this Court.

8. In view of the above, without commenting any further on the merits, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate/CJM concerned.

08.08.2023
amit rana

(N.S.SHEKHAWAT)
JUDGE

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