

CRM-M-41461 of 2022

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

CRM-M-41461 of 2022

Date of decision: 25.01.2023

Bhagwant Singh

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Mr. Bhanu Pratap Singh, Advocate,
for the petitioner.

Mr. Vikrant Pamboo, DAG, Haryana.

NAMIT KUMAR, J. (ORAL)

This petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case FIR No.605 dated 15.10.2021 under Sections 302/201/148/149/109/114 IPC and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, registered at Police Station Kundli, District Sonapat.

The case of the prosecution is 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

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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 Shamsheer Singh 278 RR. 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 medico legal examination. The deceased was identified as Lakhbir Singh @ Tita son of Harnam Singh (majhabi Sikh) r/o Chima Kalan, P.S. Sarai Amankhan, District Tarantaran 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

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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. Petitioner-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. Petitioner-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. Petitioner-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

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possession. The police remand of accused Sarabjeet, Bhagwant (petitioner), 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 were deposited with CFSL Panchkula. Accused Aman 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, petitioner-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, petitioner-Bhagwant Singh, Govind Preet Singh and Narayan Singh has been submitted in the court on 04.01.2022. Petitioner-Bhagwant Singh has actively participated in the murder of deceased Lakhbir Singh.

Learned counsel for the petitioner contends that the petitioner is innocent and has been falsely implicated in the present case. He submits that the petitioner was not named in the FIR and no overt act has been attributed to him. His names comes in the disclosure statement of co-accused. The only allegation against the petitioner is that he conspired with the co-accused to commit the offence. He is in

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custody since 16.10.2021. He further submits that investigation in the present case is complete and challan has been presented. Therefore, petitioner may be granted the concession of regular bail.

Per contra, learned State counsel submits that the petitioner is not entitled for grant of regular bail keeping in view the role attributed to him and the gravity of offence and he prays for dismissal of the petition.

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

Relevant portion from the status report filed by the State is reproduced as under: -

*“5.....On 15.10.2021 at about 03:00/04 : 00 AM that person lifted the "Garanth Sahib" and put the same in the bucket of his bicycle and committed disregard of the "Garanth Sahib", upon which he (petitioner) alongwith Govindpreet Singh and one another person apprehended that person and took him to Baba Amandeep Singh, where other persons and Nihangs were also present and they narrated the entire incident of disregard of "Garanth Sahib" by said person to Baba Amandeep Singh, upon which Baba Amandeep Singh sent one Nihang to call Sarabjit Singh. **Petitioner further disclosed that in the meantime, he alongwith other Nihangs inflicted injuries to the said person (deceased)** and after sometime Sarabjit Singh alongwith other Nihangs also reached there and Sarabjit Singh also inflicted injuries to that person with lathi. Thereafter, Baba Amandeep Singh sent him (petitioner) for putting the "Garanth Sahib" at appropriate place and after doing so, he returned back at the spot. Petitioner further disclosed that thereafter Amandeep*

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*Singh asked Sarabjit Singh to chop the hand of deceased. Thereafter, one person present there tied the rope in the kada in the hand of deceased and made the hand straight, upon which Sarabjit Singh took a sword and chopped off the wrist from the hand of deceased and thereafter the deceased was taken to stage of Kisan Agitation and he **(petitioner) took the chopped off hand of deceased to that place, where he alongwith other persons hanged the deceased having head downwards and legs upwards and caused injuries to him.***

6.....During investigation, three DVRs of CCTV cameras installed near the place of occurrence were also taken into police possession, which were sent to Cyber Forensic Laboratory . Panchkula for retrieving data and perusal of the footage in the said DVRs revealed that petitioner alongwith Govindpreet Singh was taking the deceased with them and Govindpreet Singh removed the clothes of the deceased and thereafter again petitioner Bhagwant Singh, Govindpreet Singh and one another person took the deceased with them and petitioner Bhagwant Singh can be seen while carrying the chopped hand of the deceased in his hands.”

A bare perusal of the reproduction from the status report would show that there are specific allegations against the petitioner. He is involved in the brutal murder of the deceased and the petitioner has played active role in the whole episode till the death of Lakhbir Singh @ Tita. Trial is at the stage of framing of charges and there are total 39 prosecution witnesses but none has been examined as yet.

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Keeping in view that the petitioner was actively involved in the crime and the gravity of the offence, he does not deserve the concession of regular bail.

Dismissed.

25.01.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No