

2023:PHHC:042308

CRM-M- 41296-2022 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M- 41296-2022 (O&M)
Date of Decision: 09.03.2023

Ikattar Singh

... Petitioner

V/s.

State of Punjab

... Respondent

CORAM: **HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

Present : Mr. Ashish Soi, Advocate
for the petitioner.

Mr. Gurdarshan Singh Sidhu, AAG, Punjab.

Ms. Amarjeet Kaur, Advocate for
Mohd. Salim, Advocate
for the complainant.

DEEPAK MANCHANDA, J.(Oral)

CRM-9755-2023

Learned counsel for the petitioner seeks to withdraw the
present application and does not press the same.

Application is dismissed being not pressed.

CRM-M- 41296-2022

Petitioner has prayed for grant of regular bail under Section 439 Cr.P.C. in case FIR No. 150 dated 19.12.2021 under Sections 302 and 34 IPC registered at Police Station Ahmedgarh, District Malerkotla.

Learned counsel for the petitioner contends that the petitioner is in custody since 20.12.2021 and has been falsely implicated in the present case as the petitioner is none other than the brother-in-law of the complainant-Gurwinder Kaur, who is the mother of the deceased Lakhvir Singh alias Lakhi. He contends that the complainant earlier filed a DDR on 05.10.2021 then a complaint on 12.10.2021 and then the present FIR was registered on 19.12.2021 i.e. after a gap of almost two and a half months from the alleged incident and there are discrepancies in the statement of the complainant as she improved her version again and again and the post-mortem report of the deceased dated 06.10.2021 (Annexure P-1/A) would show that Lakhvir Singh alias Lakhi died due to hanging.

Learned counsel for the petitioner further contends that neither there were any injury marks nor any scratches on the body of the deceased which could prove that he was murdered as nothing has come over in the MLR or the post-mortem report and refers to the medical opinion obtained during investigation where doctor concerned refused to give conclusive opinion. Learned counsel for the petitioner also submits that for proper investigation, the petitioner approached the concerned police authorities by moving a representation dated 07.10.2021, but no action was taken. Thereafter he approached the Sessions Court, Sangrur for a blanket anticipatory bail where the Court directed the police to serve 03 days notice

prior to his arrest vide order dated 27.10.2021 and the said order was valid for one month. Thereafter another order dated 07.12.2021 was passed with the same relief wherein police was directed to serve 03 days notice prior to his arrest. Learned counsel for the petitioner again submits that the investigation has been done in a haywired manner. He also argued that even a *habeas corpus* petition i.e. CRWP-12016/2021 was filed in this Court for release of the detinue Ikattar Singh (present petitioner) and Ram Singh where the Co-ordinate Bench appointed a Warrant Officer, who filed his report in the Court and also referred to the order dated 23.12.2021 (Annexure P-8) wherein the act and conduct of the concerned police officer was mentioned and said illegal detention of the petitioner indicates false implication. He submits that the said *habeas corpus* petition is still pending for adjudication before this High Court. He further submits that the investigation is faulty as there are discrepancies in the status report and the copy of DDR and the complaint is not even part of the challan and the cause of death is clearly mentioned in the post-mortem report as 'hanging' and nothing is to be recovered from the petitioner and the medical condition of the petitioner is not well as he has severe lesions in his liver. He further submits that challan stands presented and the conclusion of trial will take sufficient time, therefore, the petitioner be enlarged on bail.

Per contra, learned counsel appearing on behalf of respondent-State, on instructions from the Investigating Officer, opposes the grant of regular bail to the petitioner, while submitting that the offence alleged against the petitioner is serious in nature and the FIR was filed after a delay of 2.5 months as the complainant was not keeping well. He denies that the

investigation is faulty as it has been reiterated in the reply filed by the respondent-State that the petitioner was never illegally detained and tortured by the police though he was called to the police station to join the investigation on various dates and the present FIR was rightly registered against the petitioner and his co-accused and the petitioner was arrested after issuing 02 days prior notice, which was received by the petitioner on 20.12.2021. However, he does not dispute the fact that challan stands presented on 22.03.2022 and charges were framed on 15.07.2022.

I have heard learned counsel for the parties.

Petitioner is in incarceration since 20.12.2021.

It is not a case made out by the respondent-State that in case concession of bail is granted to the petitioner, he would hamper the course of free and fair trial. Further, a specific query was put to the respondent-State with regard to discrepancies in the statements made by the complainant, the same was admitted by the State counsel vide order dated 24.01.2023. Even as per the reply by the respondent-State, the contention made by the counsel for the petitioner with regard to medical opinion obtained during investigation from the concerned doctors of Medical Board, who refused to give conclusive opinion has not been disputed by the State. Since, the copy of the DDR dated 05.10.2021 and complaint dated 12.10.2021 are also not the part of the challan and the challan stands presented where the charges are framed and the trial would take sufficient time, so no useful purpose would be served in keeping the petitioner behind bars.

Resultantly, without meaning any expression of opinion on the

merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court concerned on the following conditions:-

- 1. *he shall appear before the Court on each and every date of hearing;*
- 2. *he shall not give any threat or intimidation to the prosecution witnesses;*
- 3. *he shall not indulge in any criminal activity.*

The Court accepting bonds would ensure that two local sureties who are financially sound having immovable properties within jurisdiction of the district furnish the bonds.

In addition to that the trial Court may impose any term and condition found suitable to ensure that the petitioner does not abscond and interfere in the trial.

In case the petitioner violates any terms and conditions on which the bail has been granted to him, the prosecution would be entitled to apply for cancellation of his bail.

The petition is allowed.

(DEEPAK MANCHANDA)
JUDGE

09.03.2023
seema

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes /No</i>