

209 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-40481-2023
DECIDED ON: 03.11.2023

BHUPINDER KUMAR @ SANJU PANDITPETITIONER

VERSUS

STATE OF PUNJABRESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

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

Mr. Rajiv Verma, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court has been invoked for the second time under Section 439 Cr.P.C., for grant of regular bail to the petitioner in FIR No.122, dated 13.05.2020 (Annexure P-1), under Sections 302, 427, 148, 149 and 120-B IPC, registered at Police Station Lehra, District Sangrur.
2. Learned counsel for the petitioner contends that no active role has been attributed to the petitioner as is evident from the perusal of FIR, which is narrated as under:-

“Copy of statement, statement of Paramjit Kaur, D/o Sukhpal Singh, caste Jatt, resident of Khandebad, P.S Lehra, aged about 23 years, mobile no. 89209-69000, stated that I am resident of above mentioned address and doing a house hold work we have one brother and two sister, my brother name was Lovepreet Singh alias Kalu, aged about 25 years, who is doing a work of agriculture and from the last two months he was married with Loveena, resident of Ludhiana, my sister Sandeep kaur is married with Binder Singh S/o Rajmohinder Singh, resident of Ladhal, and now my sister Sandeep Kaur and brother-in-

law Binder Singh along with their children came to our village Khandebad with us due to the vocations in school. Yesterday on dated 12.05.2020 my brother Lovepreet Singh alias Kalu, received call from Lakhwinder Singh alias Lakhi son of Darshan Singh at about 09:30 PM who told my brother Lovepreet Singh alias Kalu that I am going to consume medicine you came my house. This incident was disclosed by my brother Lovepreet Singh to both sisters and brother in law Binder Singh. We tried to stop my brother not to go at night time, but he did not stop and despite our insistence and from our house on our scooter TVS, Colour white, no. PB-72-A-2087 went to the house of the Lakhwinder Singh alias Lakhi. Then he did not came to house when we try to contact on the mobile phone no. 77172-58064 of my brother Lovepreet Singh alias Kalu, but he did not picked the phone and we become nervous. Thereafter, my brother in law Binder Singh tried to search my brother neared to the village, but he did not found anywhere, then time about 01:30 AM, morning on dated 13.05.2020 one unknown person came to our house who enquire with regard to Lovepreet Singh alias Kalu returning home, but we gave answer in a 'No' and stated that Kalu did not came home. We enquired his name who disclosed his name Mangu Singh and village Ramgarh and by saying this he went from our house, then again at about 02:30 AM three unknown youngsters in one motorcycle came to our house who stated that Lovepreet Singh alias Kalu is lying in Grain Market, Kal Banjara due to injuries and you took him. When my brother in law Binder Singh along with son of my uncle namely Harwinder Singh son of Sukhwinder Singh neighbour Pargat Singh son of Kaka Singh went to the Grain Market Kal Banjara where my brother Lovepreet Singh alias Kalu was murdered by inflicting injuries with sharp edge weapons on his neck, mouth, year and jaw and

other injuries. He was in pool of blood and was lying there and his scooter in a damaged condition was also lying there and the pair of his slipper was also lying there and two cartridges of point 32 Bore Pistol was also lying there at the spot. Then my brother in law Binder Singh for the protection of dead body leave there Harjinder Singh and Pargat Singh and came to our house to inform us and my Brother in law Binder Singh after coming to house disclosed entire thing to us. Then at our own level we enquire the matter and we came to know that my brother Lovepreet Singh alias Kalu is murdered by Sanju Pandit son of Kala Ram, Jaspreet Singh alias Jassi son of Sansi Singh, Mani son of Harmeet Singh, Bindi son of Naranjan Singh, resident of Jalooa, Harjot Singh son of Dev Singh Halwai, Harwinder Singh alias Billa son of Malkit Singh Chaharia resident of Kal Banjara, Lalu, Khushi, resident of Lehal Kalan and some other unknown persons by coming on vehicles with connivance of Lakhwinder Singh alias Lakhi son of Darshan Singh Caste Jatt, resident of Khandebar, Jagtar Singh alias Member son of Gurmeet Singh, Gaggu alias Langda son of Gurmeet Singh, Mangu singh son of Mithu Singh, resident of Ramgarh, Balram Singh alias Ballu son of Gian Singh resident of Bhutal Kalan, P.S Lehra, on dated 12.05.2020 at about 11:00 PM, because above accused Lakhwinder Singh alias Lakhi and above with their common intention called my Brother Lovpreet Singh alias Kalu from his residence and my brother Lovepreet Singh alias Kalu above is murdered by accused Sanju Pandit and others along with their respective weapons. Because of this above by taking legal action against Sanju Pandit, Jaspreet Singh alias Jassi, Mani, Bindi, Hardeep Singh, Lali, Khushi, Harwinder Singh Billa, Lakhwinder Singh Lakhi, Gaggu, Mangu, Jagtar Singh alias Member and Balram Singh alias Balli and other

unknown persons and justice be given to us. Today I along with my Brother in law Binder Singh above going to Police Station Lehra you met me near Bus Stand near Kal Banjara, please take legal action against above accused persons. sd/- by Paramjit Singh above identified by Binder Singh, attested by. Surinder Singh main officer P.S Lehra Dated 13.05.2020. Police proceedings, today I SI/SHO along with ASI Malkeet Singh, ASI Jagsir Singh C Satgur Singh 1429, PHG, Naranjan Das 48166 in a Government vehicle no. PB-13-AW-4120 being driven by C Gobind Singh 101 regarding patrolling and checking present near Bus stand Kal Banjara, then Paramjit Kaur D/o Sukhpal Singh caste Jatt, resident of Khandebad along with his brother in law Binder Singh son of Raj Mohinder resident of Laldal, P.S Lehra by presenting before me registered their above complaint. After writing and hearing admitted to be true and correct in which after taking printout from the printer to be signed and attested the same. Statement was being attested by me. According to the above statement the offences are made under section 302, 427, 148, 149, 120-B and 25/54/59 to be found. According to the statement the case is registered against above Sanju Pandit, Jaspreet Singh alias Jassi, Mani, Bindi, Hardeep Singh, Lalli, Khushi, Harwinder Singh alias Billa, Lakhwinder Singh alias Lakhi, Guggu, Mangu, Jagtar Singh alias Member. Balram Singh alias Ballu and some unknown persons sent through C Satgur Singh 1429 for the registration of case in P.S Lehra. After registration of case FIR no. be informed. Special reports be issued. Control Room Sangrur be informed. I SI/SHO along with police party along with Paramjit Kaur and Binder Singh above I am leaving at the spot. In the Jurisdiction of Bus Stand Kalbanjara time 3:00 PM sd/- Surinder Singh main officer P.S Lehra. Dated 13.05.2020..After receiving statement FIR no. above as per

offences above registered against above accused in the computer, record completed. Original statement along through HC Satgur Singh 1429, sent before SI Surinder Kumar SHO P.S. Lehra at the spot. FIR as a special report through HC Arvinder Singh 243, sent before senior officials. In charge control room Sangrur is going to be informed through e-mail.”

3. On the strength of assertion made in the FIR as well as subsequent investigation of the case, learned counsel for the petitioner submits that there is no fire-arm injury attributed to the petitioner even on perusal of medical evidence on record. He also asserts that the petitioner has already spent reasonable time i.e., approximately 3 ½ years in custody and as such, merely to fill in the lacunae, a pistol has been shown to be got recovered from the possession of the petitioner, which actually does not belong to him at all.

4. On the other hand, learned State counsel has produced the custody certificate of the petitioner, which is taken on record, to demonstrate that he has suffered incarceration for a period of 3 years, 4 months and 27 days. He prays for dismissal of the present petition urging that the petitioner was present at the spot where the occurrence took place along with Gurwinder Singh @ Mani, Jaspreet Singh @ Jassi, Harpal Singh @ Pali, Harbant Singh @ Sammi @ Harry, Gurjit Singh @ Saini and Lakwinder Singh @ Lakhi, out of whom three persons went on the motorcycle to inform at the house of the deceased Lovepreet.

5. On a query putforth by this Court, learned State counsel after having instructions from ASI Amrit Lal submits that there was a head injury on the body of the deceased, which has been caused with weapon i.e., *daah*, which is known to be very sharp edged weapon but cannot ascertain any fire-

arm injury on the body of the deceased after examining the file available with the police official present in Court but on the examination of the postmortem report, cause of death has been mentioned as Brain Hemorrhage.

6. Having heard learned counsel for the respective parties.

7. This Court is duly convinced that the petitioner though may have been shown to be in possession of one pistol, which actually got recovered from him as per Investigating Agency but that weapon has not been used in the commissioning of offence and at present role of the petitioner and any kind of other involvement, if any supported by incriminating material is to be ascertained by way of leading evidence before the trial Court.

8. Considering the fact that the petitioner has suffered incarceration for a period of 3 years, 4 months and 27 days and is not involved in any other case, as is evident from custody certificate showing his clean antecedents, added with the fact that out of total 30 prosecution witnesses only two has been examined so far and with the change in circumstances since 30.05.2023, when the first bail petition was withdrawn by the petitioner, the remaining two accused, who were declared proclaimed offender stand arrested and supplementary challan has been presented after completion of investigation and now the trial has started but will definitely take long time to complete the evidence looking at the large number of witnesses involved, the petitioner cannot be allowed to suffer any further incarceration, which curtails the right of the petitioner for speedy trial and expeditious disposal, as enshrined under Article 21 of the Constitution of India and is against the principle "bail is rule and jail is an exception". It is the basic principle of criminal jurisprudence that until or unless guilt is proved, no body can be punished.

9. In view of the aforesaid discussions made hereinabove, the petitioner is directed to be released on regular bail subject to his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.
10. In the afore-said terms, the present petition is hereby allowed.
11. However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

03.11.2023
Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No

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2023.11.03 19:12
I attest to the accuracy and
authenticity of this document