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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: September 20, 2023

Harpreet Singh

....Petitioner

versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Chandan Singh Rana, Advocate and
Ms. Sonia Parmar Rana, Advocate for petitioner.

Mr. Madhur Sharma, AAG Punjab.

ARUN MONGA, J. (ORAL)

After being declined bail by the trial Court, petitioner before this Court seeks his release as an undertrial in a case bearing FIR No.116 dated 06.07.2020, registered under Section 302 read with Section 34 of the Indian Penal Code, 1860 (for short 'IPC'), at Police Station, Sadar Khanna, District Ludhiana.

2. According to the prosecution's account, on July 5, 2020, at approximately 8:30 p.m., Jagmail Singh, the father of the complainant Gursewak Singh, went to the cattle shed to sleep after having his dinner. On July 6, 2020, around 7:45 a.m., Jagmail Singh did not return home from the cattle shed. Concerned, Gursewak Singh went to check on his father in the cattle shed. The main gate of the cattle shed was closed from the inside. Gursewak looked inside and saw his father on the bed. He called out to his father loudly, but there was no response. Gursewak climbed over the main gate and found his father's lifeless body, covered in blood, with injuries on his mouth, chest, hands, and other parts of his body. It was apparent that unknown individuals had committed the murder using sharp-edged weapons, leading to the registration of an FIR.

2.1. During the investigation, the statement of Satwinder Singh, the former Sarpanch of the village, was recorded. He claimed that the petitioner and his son (co-accused) had made an extrajudicial confession to him, stating that the petitioner was

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armed with a gandasi and used it to murder the deceased while his son stood guard outside. Additionally, a statement from Shripal was recorded, indicating that he had witnessed the petitioner and his son with a gandasi at the relevant time. When questioned, the accused individuals proceeded towards the village *phirni*. The petitioner was subsequently arrested and has been in custody since July 7, 2020.

3. Learned counsel for petitioner would contend that co-accused of the petitioner, namely Jaspreet Singh has already been granted concession of bail vide order dated 18.08.2021 (Annexure P-1) passed in CRM-M-36271-2020 by a co-ordinate Bench of this Court. Co-accused is son of the petitioner. Also contends that petitioner was not named in the FIR and no specific role has been attributed to him. He further urges that as per FIR, no offence under Section 302 read with Section 34 of IPC is made out. There is no direct evidence to show complicity of the petitioner in commission of alleged crime.

3.1. Learned counsel further contends that no independent witness was joined at the time of alleged recovery, and the same is a planted one. He further submits that nothing is to be recovered from the petitioner and he is not required for further custodial interrogation. Petitioner is not involved in any other case.

4. On the other hand, learned State counsel, opposes the bail petition. He submits that petitioner has committed a serious offence. Petitioner along with his son has caused murder of deceased. If released on bail, there is likelihood of petitioner fleeing from trial proceedings and/or tampering with evidence and influencing witnesses. He however, admits that there is no other case against the petitioner.

5. I have heard rival contentions of learned counsels for the parties and have gone through the case file.

6. On a Court query, learned State counsel, under instructions from ASI Baljit Singh submits that challan has already been presented and charges were framed on 29.01.2021. Investigation is thus complete *qua* petitioner, he is not required for custodial interrogation. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Allegations against petitioner are a matter of trial at this stage. Out of total 16 witnesses, 13 have already been examined. Conclusion of trial is still likely to take

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long time as it is proceeding at a snail pace. Whereas, petitioner has already been languishing in jail for the past more than 03years and 02 months, being behind bars since 07.07.2020.

7. Petitioner is being kept in preventive custody merely on an unfounded suspicion that if he is let out, he may either tamper with evidence and/or influence witnesses. There is no probability of tampering with evidence as the same has already been seized by the investigating agency.

8. It is stated that petitioner is an agriculturist by profession and a family person. Being family man, having a fixed abode and clean antecedents, it is unlikely that petitioner poses any flight risk and/or will flee from trial proceedings.

9. Co-accused of petitioner has been accorded the concession of bail, as aforesaid.

10. Considering the overall scenario and without commenting on the merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep the petitioner in further preventive custody.

11. Accordingly, petitioner is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court, where his case is being tried and in case he/she is not available, before learned Duty Judge, as the case may be.

12. Any observations made and/or submissions noted hereinabove shall not have any effect on merits of the case as the same are for limited purpose of bail hearing alone and learned trial Court shall proceed without being influenced with this order.

13. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

September 20, 2023

mahavir

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No