

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(204)

Surjit Singh

2023:PHHC:059457

CRM-M-43404-2020

Date of Decision: 26.04.2023

--Petitioner

Versus

State of Punjab

--Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. Rajinder Yadav, Advocate for
Mr. Salil Dev Singh Bali, Advocate for the petitioner.

Mr. Sandeep Kumar, D.A.G., Punjab.

RAJESH BHARDWAJ.J (Oral)

The present petition has been filed under Section 439 Cr.P.C seeking the benefit of regular bail to the petitioner in case FIR No.199 dated 31.10.2018 under sections 302, 34 IPC, registered at Police Station, Guru Harsahai, District Ferozepur.

As per factual matrix, a complaint was lodged on the statement made by Arvinder Singh son of Kartar Singh, wherein it was alleged that his sister was married to Gurmeet Singh from the last about 7 years and she was blessed with two children. She was employed as E.G.S Volunteer worker. His brother-in-law had died about one year ago and thereafter a dispute arose between his sister and her in-laws on account of partition of the land. Her in-laws started troubling her and on account of the same nurtured a grudge against her. His sister informed him telephonically about the harassment caused by her in-laws and on hearing the same he along with his maternal uncle Jagtar Singh reached his sister's house on 31.10.2018. On reaching there he saw that Falak Singh, maternal uncle-in-law and

Shindo Bai mother-in-law of his sister was holding a dang in her hand and both were threatening his sister. Thereafter, Sharma Singh gave two blows with his axe out of which one hit on the head and second hit on the abdomen of his sister. In the meanwhile, second brother-in-law of his sister namely Surjit Singh i.e. the present petitioner hit her with Kamani on right side of her back. Resultantly, his sister Maya Devi died on the spot. A request was made to take legal action against the culprits.

On the basis of complaint FIR was registered and investigation commenced. Post mortem of the dead body was conducted and statements of relevant witnesses were recorded. Petitioner was arrested on 8.12.2018. Initially there were total 4 accused, however, after completion of investigation two were declared innocent and challan was presented against petitioner Surjit Singh and co-accused Sharma Singh. Petitioner approached the court of learned Sessions Judge, Ferozepur for grant of bail, however, after hearing the parties, the same was declined vide order dated 7.8.2020. Aggrieved by the same petitioner has approached this court for grant of bail.

Learned counsel for the petitioner vehemently contends that petitioner has been falsely implicated in the present case. It is submitted that though the FIR has been registered on the statement of complainant namely Arvinder Singh, however, the same has not been recorded correctly by the police. He submits that complainant is real brother of the deceased and his conduct does not inspire any confidence as he was present at the time of occurrence but he did not make any effort to save his sister being attacked by the petitioner and co-accused. He submits that after completion of investigation challan has been presented and charges have been framed, however, till date witnesses are not coming forward for their examination

only in order to prolong the incarceration of the petitioner. He has drawn attention of this court to the zimni orders of the Trial Court from which it is apparent that eye witnesses are intentionally avoiding their presence and delaying the trial. Counsel submits that petitioner is behind bars for the last about 4 ½ years and till date prosecution has not even examined half of the witnesses. It is submitted that petitioner has every right of a speedy trial which is intentionally being defeated by the prosecution. It is submitted that petitioner has no criminal antecedents and thus he deserves to be granted bail.

On the other hand, learned State counsel on instructions from ASI Gurdev Singh has opposed the submissions made by counsel for petitioner. It is submitted that case of the prosecution is based on the deposition of eye witnesses. He submits that supplementary statement was recorded wherein it was deposed that petitioner was armed with Kirpan and he gave a blow of the same to the deceased. It is submitted that deceased suffered four injuries and all of them cumulatively resulted in death of the deceased. It is further submitted that petitioner and co-accused are behind bars for the last about 4 ½ years. It is submitted that prosecution filed an application under section 319 Cr.P.C and on account of the same there occurred a delay in examining the witnesses. He submits that all the prosecution witnesses have been examined and the case is fixed for 8.5.2023 for examination of defence witnesses.

I have heard learned counsel for the parties at length and have gone through the records carefully.

Admittedly, petitioner is behind bars for the last about 4 ½ years. Initially there were 4 accused in the present case, however, after

completion of investigation 2 were found innocent and challan was presented only against petitioner and co-accused Sharma Singh. As per information provided by learned State counsel petitioner has no criminal antecedents. There is no gainsaying that every accused has a right of speedy trial. Keeping in view the overall facts and circumstances of the case and the custody period of the petitioner, this court is of the opinion that petitioner deserves to be granted the benefit of bail.

This court would refrain itself from commenting on the merits of the case, as the allegations and counter allegations would be assessed only after evaluation of the complete evidence led by both the sides before the Trial Court. The trial would take long time in its conclusion.

In the totality of facts and circumstances and without making any observation on merits and keeping in view the custody period of 4 ½ years undergone by the petitioner, present petition is allowed. Petitioner be enlarged on bail on his furnishing bail/surety bonds subject to satisfaction of Trial Court/Duty Magistrate, concerned. Nothing stated herein shall be treated as an expression on the merits of the case.

It is made clear that in case the petitioner tries to prolong the trial by seeking unnecessary adjournments for producing defence evidence, the prosecution shall be free to move an appropriate application for recalling of the present order.

(RAJESH BHARDWAJ)
JUDGE

26.04.2023

lucky

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No