

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-45737-2023

Date of Decision:-20.09.2023

Mahavir Singh.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Karanjeet Singh Brar, Advocate for the Petitioner.

Ms. Ramta K Chaudhary, Deputy Advocate General, Punjab.

JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.26 dated 23.03.2021 under Sections 302, 201 IPC registered at Police Station Sadar Abohar, District Fazilka.

2. The present FIR came to be registered at the instance of Arjan son of Dhan Man who stated that he was working as a Siri at village Lande Rode with Jai Singh and had 04 sons and a daughter. His son Ganesh (deceased) was about 16 years old and was studying in Class-10. On 18.03.2021 when he (complainant) returned from work his son Ganesh was not present at home. He along with his family members searched for Ganesh but he could not be found. On 19.03.2021 they came to know that the dead body of his son was found from the Canal in the jurisdiction of P.S. Sadar Abohar near village Alamgarh. Upon this he and his other son Manraj identified the dead body at Civil Hospital, Abohar to be that of his son Ganesh. His hands and feet had been tied with rope. His son Ganesh

had been done to death by some unknown persons.

3. The Counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. In fact no one had been named in the FIR. Subsequently, the supplementary statement of the complainant Arjan came to be recorded almost 04 months after the occurrence on 21.07.2021 as per which on an enquiry being made, he (complainant) had found that Ganesh had been murdered by Lovepreet Singh (since granted bail vide order dated 16.08.2023 passed in CRM-M-37042-2022), his father Pardhan Munda (since granted bail vide order dated 01.09.2023 in CRM-M-42122-2023) and an uncle Mahavir Singh (petitioner) as the daughter of the Pardhan Munda namely Komal was having a love affair with his son Ganesh. He contends that pursuant to the aforementioned statement, the investigating agency recorded the statement of one Sukhpal Singh on the same date i.e. 21.07.2021 as per which one person (subsequently known to be Ganesh) had been travelling with the said Sukhpal Singh in a bus and Sukhpal Singh had later seen a boy and girl talking with each other and the boy was Ganesh. Thereafter the investigating agency had recorded the statement of Ramandeep Kaur on 3.09.2021 under Section 164 Cr.PC as per which on the asking of the Ganesh she had delivered a message to Komal but Komal had replied that she could not go and meet Ganesh as her mother had seen her. He contends that the supplementary statement is based on no evidence at all whereas the statements under Section 161 Cr.PC of Sukhpal Singh and that of Ramandeep Kaur under Section 164 Cr.PC do not further the prosecution case. In fact, there was no admissible evidence against the petitioner and his co-accused such as the evidence of motive, recovery or extrajudicial confessions. As the petitioner was in custody since 22.07.2021 and none of the 23 prosecution witnesses had been examined so far, he was

entitled to the concession of bail as he had clean antecedents and his co-accused had been granted the concession of bail.

4. The Counsel for the State on the other hand contends that the offence is well established. Though the petitioner and his co-accused were named on suspicion on the basis of information available with the complainant, later, the statement of two witnesses had been recorded under Section 161 Cr.PC and 164 Cr.PC which would establish the *prima facie* the guilt of the accused. Even otherwise post his arrest the petitioner had suffered a confessional statement admitting to having committed the offence along with his co-accused. Therefore, he was not entitled to the grant of bail. He however, concedes that the petitioner is in custody since 22.07.2021 and none of the 23 prosecution witnesses have been examined so far.

5. I have heard the learned counsel for the parties.

6. Admittedly, no person is named as an accused in the FIR. Subsequently, after a gap of 04 months, the supplementary statement of the complainant came to be recorded leading to the further recording of two statements of witnesses. The evidentiary value of the said statements shall be adjudicated upon during the course of Trial. The petitioner is in custody since 22.07.2021 and none of the 23 prosecution witnesses have been examined so far. Therefore the Trial of the present case is not likely to be concluded anytime soon. In this situation the further incarceration of the petitioner is not required more so as he has clean antecedents with no other case registered against him and his co-accused Lovepreet Singh and Pardhan Munda have been granted the concession of bail.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-**Mahavir Singh** son of Sh. Noora

Singh is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other crime other than the present case.

9. If the petitioner or any of his family members/associates make any attempt to contact/threaten/intimidate the witnesses in the present case, the State would be at liberty to move an application for cancellation of bail granted vide this Court.

10. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.50,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from the trial without sufficient cause.

11. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

September 20, 2023
Vinay

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No