

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-48289-2022 (O&M)

Date of Decision: 10.2.2023

Jarnail Singh

....Petitioner

VERSUS

State of Haryana

....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. M.S.Chauhan, Advocate
for the petitioner.

Mr. Vishal Kashyap, DAG, Haryana

KARAMJIT SINGH, J.

Prayer in the present petition under Section 439 of Code of Criminal Procedure is for grant of regular bail to the petitioner in case FIR No.44 dated 31.1.2020 registered for the offences punishable under Sections 120-B, 201, 302, 34, 346, 412 IPC at Police Station Mahesh Nagar, District Ambala.

The allegations in nutshell are that complainant-Dalip Singh reported to the police regarding missing of his son Swaranjit Singh and later on, when one unknown dead body was found , offence under Section 302 IPC etc. were also added and during the investigation of the case, certain persons including the petitioner were named as accused and as per prosecution version, co-accused Manish and Saravjit Singh caught the victim from his legs and arms while the present petitioner strangulated the victim and thereafter, the accused persons poured petrol and tried to burn the dead body of Swaranjit Singh.

Counsel for the petitioner *inter alia* contends that the petitioner is in custody for the last more than 2 years and 9 months and is having no criminal history and till date, the prosecution has been unable to establish the identity of the dead body which was totally putrified when the same was recovered. He further submits that as per prosecution version, the deceased died due to strangulation. However, as per post mortem report (Annexure P-6), no ligature mark was found and further, no burn injuries were there on the said unidentified dead body. He further submits that even the report of DNA is still awaited to establish the identity of the dead body and the trial is not progressing ahead and that the entire case is based on circumstantial evidence. He further submits that co-accused Saravjit Singh, who is alleged to have held the hands/legs of the victim at the time of the occurrence, is already granted regular bail by Coordinate Bench of this Court vide order dated 20.9.2022 (Annexure P-8).

The present petition is contested by the State counsel who on instructions from SI Ranjit submits that the petitioner was actively involved in the murder of Swaranjit Singh and he strangled the victim. State counsel further submits that the trial is going on and already, 7 witnesses out of total 42 witnesses on behalf of the prosecution are examined but the complainant is still to be examined. He further apprised the Court that DNA report is still awaited in the present case. However, State counsel failed to controvert the contentions raised by the counsel for the petitioner with regard to absence of ligature mark and burn injuries on the dead body as per the post mortem report (Annexure P-6). State counsel has also not disputed the fact that the petitioner is in custody for the last more than 2 years and 11 months and is having no criminal history and that the present case is based on

circumstantial evidence and further, co-accused Saravjit Singh has been granted regular bail vide order dated 20.9.2022 (Annexure P-8) by the Coordinate Bench of this Court.

I have considered the submissions made by the counsel for the parties.

As per prosecution version, Swaranjit Singh got missing and the matter was reported to the police and thereafter, one decomposed dead body was recovered by the police and the same was identified to be that of the deceased by his father. Report of DNA is still awaited to establish the identity of the said dead body. Further, as per prosecution version, the victim was strangled and thereafter, his dead body was burnt by pouring petrol on it. However, as per post mortem report Annexure P-6, no ligature mark or burn injuries were found on the dead body as has been submitted by the counsel for the petitioner.

State counsel has furnished the custody certificate, as per which, custody of the petitioner comes out to be more than 2 years and 11 months and he is having no criminal history. Further, co-accused Saravjit Singh has already enlarged on bail vide order dated 20.9.2022 (Annexure P-8). It will take time for conclusion of trial as till date, only 7 witnesses are examined on behalf of the prosecution out of total 42 witnesses and even the complainant is still to be examined.

In the given circumstances, as the prosecution is yet to establish the identity of the dead body of Swaranjit Singh which is stated to be that of the deceased, no useful purpose is going to be served by keeping the petitioner in custody for any further period.

In view of the above, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

(KARAMJIT SINGH)
JUDGE

February 10, 2023
Paritosh Kumar

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