

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-49914-2023 (O&M).
Date of Decision: 05.12.2023.

LAKHWINDER SINGH

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: Mr. Paras Talwar, Advocate, with
Mr. Sidharth Sehgal, Advocate for the petitioner.

Mr. Athar Ahmed, DAG, Punjab.

VINOD S. BHARDWAJ. J (ORAL)

The instant petition has been filed under Section 439 of the Code of Criminal Procedure, for the grant of regular bail in FIR bearing No.49 dated 01.07.2021, registered under Section 302 and 34 of the Indian Penal Code, 1860 at Police Station Tibber, District Gurdaspur.

Briefly summarizing, the case of the prosecution is that the above said FIR has been registered on the statement of Shamsheer Singh son of Pritam Singh who had stated that they are two brothers and five sisters. His brother Mastan Singh resides in the adjacent house. Being an

old construction, Mastan Singh had demolished the same and wanted to construct a new house. The house of accused Lakhwinder Singh is situated in front of the house of the complainant. Lakhwinder Singh is employed in Police Department at Gurdaspur. On 30.06.2021, Lakhwinder Singh came to his house in his car at about 7:30 P.M. When he was about to turn the car towards his house, at that time Mastan Singh was throwing debris in his plot and the same fell on the road. Lakhwinder Singh alighted from his car and hurled filthy abuses to the deceased Mastan Singh. On hearing the loud voice and exchange of abuses, Tajinder Singh alias Laddi also opened the door of his house to teach a lesson to Mastan Singh as he causes disturbance on daily basis. Lakhwinder Singh caught hold of Mastan Singh and gave fist blow on his chest. He strangled his neck by putting his arms around it while Tajinder Singh @ Laddi caught hold of his brother from his hair and gave a fist blow on his abdomen and back. The occurrence was witnessed by Shamsher Singh and his sister-in-law Kulwinder Kaur wife of Mastan Singh. Mastan Singh passed away as a result of strangulation.

Learned counsel for the petitioner contends that the Post-Mortem examination of deceased Mastan Singh was conducted as per which there was no other injury on the body of the deceased. He further contends that the petitioner has been in custody since 24.07.2021 and that the petitioner has already undergone actual custody for a period of more than two years and four months. He submits that only 5 witnesses out of 26 witnesses cited by prosecution have been examined so far. He submits that complainant as well as the eye witnesses have also been

examined in the present case, hence, there is no possibility of petitioner interfering or influencing the witnesses.

Learned counsel for respondent-State, on the other hand, contends that the petitioner who is a member of the Punjab police force had committed the offence of committing murder of deceased Mastan Singh. He further submits that the petitioner has criminal antecedents and earlier also he was involved in three other cases. However, he could not dispute the fact that the petitioner has undergone an actual custody for a period of more than two years and four months.

Controverting the aforesaid submission, learned counsel for the petitioner submits that insofar as the other antecedents of the petitioner are concerned, the same are in relation to FIR No.08 dated 24.01.1993, under Section 392 of the Indian Penal Code, registered at Police Station, Division No.3, Jalandhar, in which the petitioner was acquitted by Judicial Magistrate First Class, Jalandhar, vide judgment dated 29.01.1997 while in another FIR No.153 dated 15.10.2006, registered under Sections 353, 186, 332, 333, 379, 148 and 149 of the Indian Penal Code, registered at Police Station Sadar, Gurdaspur, a cancellation report had been submitted which was accepted by the Judicial Magistrate First Class, Gurdaspur on 20.01.2009. He further submits that so far as third case bearing FIR No.76 dated 31.05.2010 under Sections 427, 379 and 506 of the Indian Penal Code registered at Police Station Sadar, Gurdaspur, is concerned, the petitioner already stands acquitted in the said case vide judgment dated 22.08.2012 passed by the Additional Chief Judicial Magistrate, Gurdaspur. Hence, having been acquitted in all the three cases, it cannot be construed that the

petitioner is a habitual offender. He further submits that taking into consideration the principles of justice and presumption of innocence as also the period of custody already undergone by the petitioner, his case for grant of bail may be considered since conclusion of the trial is likely to take long time. He further contends that any onerous condition, as this Court may feel necessary, be also imposed on the petitioner.

I have heard the learned counsel appearing on behalf of the respective parties.

Without commenting on the merits of the case and noticing the period of actual custody of 02 years and 04 months undergone by the petitioner and also the stage of the trial that out of 26 witnesses cited by the prosecution only 05 witnesses have been examined and that the conclusion of the trial is likely to take long time, I deem it fit to allow the instant petition.

Accordingly, the instant petition is allowed and the petitioner is ordered to be admitted to regular bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned with an undertaking to the effect that he shall not indulge in any other criminal activity and shall maintain peace for a period of one year from the date of submission of the bail bonds.

It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witness in any manner directly or indirectly.

The observation made hereinabove shall not be construed as an expression on the merits of the case and the trial Court shall decide the case on the basis of available material.

December 05, 2023
raj arora

(VINOD S. BHARDWAJ)
JUDGE

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