

CRM-M-54063-2023 (O & M)
(247)

::1::

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-54063-2023 (O & M)
Date of decision: 03.11.2023

Gurjant Singh @ Titu

.... Petitioner

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr.Dilsher Mann, Advocate,
for the petitioner(s).

Mr. Harkanwar Jeet Singh, AAG, Punjab.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail to the petitioner-Gurjant Singh @ Titu in case FIR No.74 dated 24.03.2022 registered under Sections 365, 302, 34 IPC (Sections 201 IPC added later on) at Police Station Sadar, District Amristar.

3. The brief facts of the case are that Kirpal Singh (complainant) lodged a missing person report with the investigating agency on 15.02.2022 to the effect that his son Kuljit Singh had left the house to go on his duty on 14.02.2022 on his scooter but had not come back. On a search being conducted, he could not be found.

Thereafter, on 17.02.2022, the statement of Kirpal Singh (complainant) was recorded once again wherein he stated that after his son had gone missing, a search was made for him, and on 17.02.2022, his dead-

body was found lying near Railway lines in the area of Mohkampura in

CRM-M-54063-2023 (O & M)
(247)

::2::

mysterious circumstances. The post-mortem of the dead body of Kuljit Singh was conducted on 18.02.2022 at Civil Hospital, Amritsar.

On 24.03.2022, the complainant once again got recorded his statement before the SHO, Police Station Sadar, Amritsar, wherein he stated that he had enquired at his own level and had found that his son Kuljit Singh (deceased) had been killed by Gurjant Singh @ Titu (petitioner), Ajay Gill (since granted bail vide order dated 24.08.2023 passed in CRM-M-8430-2023) and Sharanjit Singh @ Sunny Dattar (since granted bail vide order dated 24.08.2023 passed in CRM-M-8547-2023) by giving him poison. The motive for the occurrence as disclosed by his deceased son some days prior to the occurrence was that Gurjant Singh @ Titu and Ajay Gill had borrowed money from him (deceased) and when he (deceased) demanded his money back, the accused had quarreled with him and had threatened him. He (complainant) was confident that Gurjant Singh @ Titu, Ajay Gill and Dattar in connivance with their other associates had killed his son.

Based on the said statement, the instant FIR came to be registered.

During the course of investigation, on 24.03.2022, one Himmat Kumar @ Raja was joined in the investigation wherein he stated that on 24.03.2022, Gurjant Singh @ Titu and Ajay Gill had come to his shop. They had disclosed to him that on 14.02.2022, the deceased Kuljit Singh was killed by them (Gurjant Singh @ Titu, Ajay Gill) and Sharanjit Singh @ Sunny Dattar due to a money dispute and they had thrown his dead body near the Railway lines. They (Gurjant Singh @ Titu and Ajay Gill) had requested him to help them (accused) with the police.

CRM-M-54063-2023 (O & M)
(247)

::3::

Thereafter, the supplementary statement of Kirpal Singh was recorded to the effect that his neighbour Rajinder Kumar had told him that he had seen Titu and Ajay Gill arguing with the deceased on 14.02.2022 at about 6.00/7.00 p.m. and Kuljit Singh (deceased) was asking them to return his money. Both the accused had told Kuljit Singh that they would get him money from Dattar. Thereafter, they had taken Kuljit Singh on their scooters towards the backside of the petrol pump. After some time, Ajay Gill, Titu and Sharanjit Singh @ Sunny Dattar came there and he (Rajinder Kumar) had asked them as to the whereabouts of Kuljit Singh but the three accused had given no answer. The statement of Rajinder Kumar was recorded under Section 161 Cr.P.C. to the same effect. He had further stated that after seeing the deceased in the presence of the accused, he had gone to U.P. for a month and had come back only now.

Based on the aforementioned evidence, the accused including the petitioner came to be arrested and suffered their disclosure statements admitting that they had made the deceased Kuljit Singh consume poison forcibly. Thereafter, they had thrown him near the Railway lines at Mohkampura and his scooter had been concealed in the house of Gurjant Singh @ Titu, who subsequently, got it recovered.

4. The learned counsels for the petitioner contends that the extra judicial confession purportedly made by Ajay Gill and Gurjant Singh @ Titu (petitioner) to Himmat Kumar @ Raja cannot be believed. It does not stand to reason that the accused would go and make a confession to an unknown person more than one month after the occurrence when the crime itself had been committed in utter secrecy. Even otherwise, extra judicial confessions

CRM-M-54063-2023 (O & M)
(247)

::4::

upon without substantial corroboration. He further contends that the statement of Rajinder Kumar @ Nanhe Lal who stated that he had seen the accused in the company of the deceased on 14.02.2022 also cannot be believed as the said statement under Section 161 Cr.P.C. was recorded on 25.03.2022, more than a month after the registration of the FIR and the explanation furnished for the delay is unacceptable. He contends that even admitting the statements of Himmat Kumar @ Raja and Rajinder Kumar to be the gospel truth, the said statements are at complete variance with the post-mortem report. As per the extra judicial confession made before Himmat Kumar @ Raja, the accused are said to have committed the murder of the deceased on 14.02.2022. Similarly, as per the last seen evidence of the Rajinder Kumar, he has seen the accused with the deceased on 14.02.2022 and later on, had seen the accused without the deceased on the same day. On the contrary, as per the post-mortem examination, which took place on 18.02.2022, the deceased had died 24-28 hours prior to the occurrence which would make the date of the murder on or about 16/17.02.2022. Therefore, the statements of Himmat Kumar @ Raja and Rajinder Kumar become doubtful and the false implication of the petitioner cannot be ruled out.

Even otherwise, two co-accused of the petitioner, namely, Ajay Gill and Sharanjit Singh @ Sunny Dattar had been granted the concession of bail and the petitioner was similarly placed.

5. The learned counsel for the State, on the other hand, contends that the present case is based on circumstantial evidence. The evidence of extra judicial confession and last seen coupled with the motive as is

CRM-M-54063-2023 (O & M)
(247)

::5::

affix the liability upon the petitioner and his co-accused who have been accused of committing a heinous offence. A perusal of the custody certificate dated 02.11.2023 would show that the petitioner is an accused in a number of cases. Therefore, he was not entitled to the concession of bail. He, however, admits that two similarly placed co-accused of the petitioner have been granted the concession of bail.

6. I have heard the learned counsel for the parties at length.

7. Admittedly, the case is based on the circumstantial evidence and the two planks of the case are the extra judicial confession and the evidence of last seen. Whether the said evidence is sufficient to inculcate the petitioner shall be adjudicated upon during the course of trial. As the petitioner is in custody since 28.03.2022 and only 02 of the 30 prosecution witnesses have been examined so far, 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.

8. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, Gurjant Singh @ Titu is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

9. The petitioner shall appear on the first Monday of every month before the police station concerned till the conclusion of the trial and furnish an affidavit each time that he is not involved in any crime other than the cases mentioned in the custody certificate dated 02.11.2023.

10. If any attempt whatsoever is made by the petitioner and/or his family members/friends to contact/threaten/intimidate any of the witnesses

CRM-M-54063-2023 (O & M)
(247)

::6::

of the present occurrence, the State/complainant shall be at liberty to move an application for cancellation of bail granted vide this order.

11. 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.

(JASJIT SINGH BEDI)
JUDGE

November 03, 2023
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No