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2023:PHHC:045271

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.58224 of 2022 (O&M)

Date of decision: 28.03.2023

Surjit Singh

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Jasraj Singh, Advocate
for the petitioner.

Mr. Teevar Sharma, AAG, Punjab.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this 2nd petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.134 dated 12.09.2018, for offence punishable under Sections 302, 201 and 34 of the Indian Penal Code, 1860 (in short 'IPC') registered at Police Station Dasuya, District Hoshiarpur.

The new ground for filing this petition is that after examination of PW-1, i.e. the complainant, the prosecution has filed an application under Section 319 Cr.P.C., for summoning 03 additional accused namely Gopi Singh, Desraj and Satpal and since the application remained pending for a considerable long time, the petitioner filed a petition i.e. CRM-M No.14274 of 2022, for expeditious disposal of the application and thereafter, the de novo trial was started and the petitioner is in custody for the last 02 year and 09 months.

Brief facts of the case are that the FIR was registered at the instance of Harpreet Kaur against the aforementioned 03 persons namely Gopi Singh, Desraj and Satpal, regarding the murder of her mother namely Harjinder Kaur. Gopi Singh is the father of the complainant/Harpreet Kaur, Desraj is her father's real brother (Taya) and one Satpal is the Sarpanch of the village. The statement of Harpreet Kaur has already been recorded as PW-1, in which she has stated that in the year 2018, she was studying in College and her mother namely Harjinder Kaur was working in the shop of the petitioner. On 10.09.2018, her mother went to the shop of Surjit Singh on her moped bearing registration No.PB-07-BJ-4485 and when in the evening, she did not return, the complainant made a phone call to the petitioner. Upon which, he informed her that she left the shop by 04:30 PM. Thereafter, the complainant informed about the same to her maternal uncle and other relatives and they searched for her. On 11.09.2018, she got an information on telephone that her mother Harjinder Kaur has expired and her dead body is lying in the sugarcane fields on the road of Village Khera Kotli to Bersha. Then, she informed the police but her father Gopi Singh warned her that they have done, whatever they wanted to do and she should not disclosed about the same to anyone else otherwise she will be killed. On this, the complainant became suspicious that her father Gopi Singh, Desraj, Satpal and Surjit Singh have committed the murder of her mother and thrown her dead body.

Counsel for the petitioner has referred to the FIR to submit that in the first instance, when the FIR was registered only 03 persons were named and the petitioner was named in the statement of PW-1, as

one of the assailant. It is further submitted that the evidence, which has come against the petitioner is that in the CCTV footage, the petitioner was seen driving the scooty of the deceased and the number plates were recovered.

Counsel for the petitioner has also submitted that the petitioner was nominated in the case on the basis of the statement of one Pardeep recorded under Section 161 Cr.P.C., regarding the extra judicial confession made by the petitioner in his presence. The said statement was made almost after 01 year of the incident and it is yet to be proved in the Court. It is also argued that the custody of the petitioner is about 02 years and 09 months and now the application under Section 319 Cr.P.C., has been allowed by summoning the aforementioned three additional accused, who were originally named in the FIR by the complainant and therefore, the de novo trial is yet to start.

Counsel for the State on instructions from ASI Satnam Singh and on the basis of the affidavit of the Inspector/SHO, Police Station Dasuya, District Hoshiarpur, in which it is stated that the recovery of number plates were effected from the petitioner and he has not disputed the factual position but opposed the prayer for bail. It is also not disputed that after the application under Section 319 Cr.P.C. was allowed, no fresh evidence has been recorded.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody for the last about 02 years and 09 months; the custodial interrogation of the petitioner is not required and the conclusion of the trial will take some time, this petition

is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

28.03.2023

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No