

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

232

CRM-M-56943-2023

Date of decision: 20.11.2023

Ajay @ Gudda @ Gurmeet Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Arsheel Singh Brar, Advocate
for the petitioner.

Mr. Mohit Kapoor, Addl. A.G., Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.178 dated 05.09.2021 under Section 302 of the IPC (Sections 148 and 149 of the IPC added lateron) registered at Police Station Dharamkot, District Moga.

2. Learned counsel for the petitioner *inter alia* submits that the case in hand rests on circumstantial evidence. While drawing the attention of this Court to the FIR in question (Annexure P-1), learned counsel further contends that a perusal of the same clearly reveals that no suspicion whatsoever, even by way of a whisper, had been raised by the complainant i.e. father of Rajwinder Singh (hereinafter referred to as, 'the deceased') qua the involvement of any person much less the petitioner. Rather, the complainant was accompanied by his other son in law, Mohinder Singh, went to lodge the FIR; Mohinder Singh subsequently had made a supplementary statement after a couple of days of the murder of the deceased, that on the night of the alleged

occurrence, he had overheard all the accused including the petitioner boasting that they had planned and committed the murder of the deceased. Learned counsel has asserted that had Mohinder Singh actually overheard the accused boasting about their involvement in the crime in question, it could not be believed that Mohinder Singh would have still chosen to keep quiet or he and the complainant would have withheld this fact from the police at the time of registration of the FIR. It has also been urged that in a case resting on circumstantial evidence, motive to commit a crime plays an important role, however, in the case in hand, the motive has been attributed to co-accused Jaideep Singh, who had allegedly been nursing a grudge against the deceased as the latter had lodged a complaint against him, after he eloped with the daughter of the deceased. Learned counsel has further submitted that the petitioner has now been in custody for more than two years having been arrested on 07.09.2021 and only 02 prosecution witnesses out of the 14 cited, have been examined so far. It has been submitted that the father in law of the deceased as well as the complainant had been examined.

3. Per contra, learned State counsel while opposing the prayer and submissions made by learned counsel for the petitioner, on instructions, has not been able to controvert that the FIR in question was lodged against unknown persons wherein no suspicion whatsoever was raised qua the involvement of any person much less the petitioner. However, he submits that when co-accused Jaideep and others entered the house of the deceased to commit the crime, the petitioner, who was their friend, stood guard outside the house. It has also been contended

that a supplementary statement of the wife of the deceased was recorded on 06.09.2021 wherein she named all the accused including the petitioner and raised suspicion qua their involvement in the murder of Rajwinder Singh.

4. I have heard learned counsel for the parties and perused the material placed on record.

5. The petitioner has been in custody since 07.09.2021. Both the material witnesses i.e. the complainant and father in law of the deceased stand examined. However, 12 prosecution witnesses still remain to be examined. Thus, there is no likelihood of the trial concluding in the near future. Resultantly, in the facts and circumstances coupled with the role attributed to the petitioner, this Court deems it fit to extend the concession of bail to the petitioner.

6. Accordingly, the instant petition is allowed. The petitioner be admitted to bail on his furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

20.11.2023

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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