

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M No.4547 of 2023  
Date of decision : 02.11.2023

**Beant Singh @ Mithu**

..... Petitioner

**Versus**

**State of Punjab**

..... Respondent

**CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

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Present:- Mr. Akhilesh Vyas, Advocate with  
Mr. Nirmal Sharma, Advocate  
for the petitioner.

Mr. Arun William, AAG, Punjab.

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**RAJESH BHARDWAJ, J. (Oral)**

Present second petition has been filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case FIR No.142, dated 06.05.2020, under Sections 302, 454, 380, 34 of Indian Penal Code, 1860 subsequently challan has been filed under Sections 302, 450, 380, 201, 120-B, 34, 376-D of IPC (Section 454 IPC has been deleted and Sections 376-D, 120-B, 201, 450 of IPC, 1860 added later on), registered at Police Station Sadar Amritsar, District Police Commissionerate Amritsar.

Brief facts of the case are that Gurkirat Singh, son of late Nirmal Singh made a statement before the Police wherein he alleged that he is employed in the Punjab Police and was posted at Amritsar. His father had died three years ago and he used to live with his mother, namely

Sarabjit Kaur (deceased). On 06.05.2020 at about 9.00 a.m., he received a phone call of Manpreet Kaur, daughter of his maternal uncle, who informed that she was unable to reach her Bua Ji through phone. At about 5.45 p.m., he again received a call from her informing that the phone of her Bua Ji was still switched off. Being suspicious, he called his neighbour, namely, Sunny Pal Singh asking him to go to his house and check why the phone of his mother was switched off. On his asking, Sunny Pal Singh went to his house and found blood spilled near the kitchen. He informed that to neighbours and the complainant. Reaching home, he found the dead body of his mother, Sarabjit Kaur with a Dupatta tied around her neck. An injury of a sharp edged weapon was found on her neck. On checking the house, jewellery items and cash of Rs.22,000/- was found to have been stolen. It was stated that some unidentified persons with intention to loot had taken away the gold weighing 3 ½ Tola and Rs.22,000/- cash and also killed his mother Sarabjit Kaur. The request was made to take a legal action. On the basis of the allegations, a formal FIR was registered and the investigation commenced. The postmortem of the dead body was conducted on 07.05.2020. During investigation, the Investigating Agencies on 15.05.2020 recorded the statement of Kulbir Singh son of Savinder Singh wherein he deposed that Gurpreet Singh @ Gopi, Lakhwinder Singh and Amritpal Singh, who were already known to him approached him on 09.05.2020 and disclosed that they had done the sanitary work in the house of a lady namely Sarabjit Kaur and since she was financially well off, they became greedy and thus, on 06.05.2020 with an intention to commit theft

of gold ornaments and cash, they committed murder of Sarabjit Kaur. They also requested him to help them as he was having good relations with the Police Department. The Investigating Agencies traced the call records and thus, on finding the involvement of petitioner in the offence, he was arrested on 07.05.2020. The petitioner approached the Court of learned Additional Sessions Judge, Amritsar praying for grant of bail. However, after hearing both the sides, learned Additional Sessions Judge declined the same vide order dated 21.12.2020. Aggrieved by the same, petitioner on earlier occasion approached this Court praying for grant of regular bail by filing a petition bearing **CRM-M No.591 of 2021**. However, the same was allowed to be dismissed as withdrawn vide order dated 16.03.2022. Hence, the petitioner is before this Court again by way of filing the present second petition.

Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely and frivolously implicated in this case. He submits that as evident, the case of the prosecution is based on circumstantial evidences and thus, there is no direct evidences to connect the petitioner with the alleged offence. He submits that the Investigating Agencies have recorded the extra judicial confession of Kulbir Singh. However, it is apparent that Kulbir Singh had deposed that three accused had disclosed before him about the incident and asked for help in the police department. He submits that petitioner has not been named by Kulbir Singh even in the extra judicial confession. He further submits that the only evidence produced by the prosecution against the petitioner is the call

recording of the petitioner showing call made to the complainant which itself is not sufficient to connect the petitioner with the offence alleged. He submits that the petitioner was not even present at the place of occurrence as he has been implicated in this case on the basis of conspiracy under Section 120-B of IPC. He submits that the petitioner is behind bars from last about 3 ½ years. He has further submitted that the learned trial Court has found no material regarding the offence under Section 376(D) and hence the petitioner has not been charged for the offence under Section 376-D of IPC. He submits that the majority of the witnesses already stands examined and thus, in the overall facts and circumstances, the petitioner deserves to be granted bail.

*Per contra*, learned State counsel has opposed the submissions made by learned counsel for the petitioner. He submits that during investigation, the Investigating Agencies have recovered the call records of the phone belonging to the petitioner. He submits that just before the occurrence, the petitioner had called the complainant to verify his location so as to assist the co-accused in carrying out the conspiracy hatched by all of them. He submits that the petitioner had played an active role as is evident from the material collected. He submits that for proving the charges under Section 120-B IPC there should not be a direct evidence as the offence of conspiracy is to be assessed from attending circumstances. He submits that circumstances in the case are sufficient enough for proving the role of the petitioner in the alleged offence. He submits that out of 33 prosecution witnesses, 21 have already been examined. He further submits

that as per the instructions, the petitioner is not involved in any other case except the present one.

I have heard the learned counsel for the parties and perused the record.

Evidently, the occurrence in question had taken place on 06.05.2020 wherein the mother of the complainant was found murdered in her home. As per postmortem, deceased was subjected to rape before her murder. As per case of the prosecution, in all four accused were found to be involved in the case including the petitioner. The extra judicial confession was made by rest of three accused before Kulbir Singh. However, the petitioner was not named in the extra judicial confession. Evidence collected against the petitioner as submitted before this Court is the call detail of the petitioner made to the complainant i.e. son of deceased and thereafter he made a call to the co-accused namely, Lakhwinder Singh. Learned trial Court has not framed the charge under Section 376-D of IPC against the petitioner. Primarily, the petitioner is involved in the case with the aid of offence under Section 120-B IPC. Out of 33 prosecution witnesses, 21 i.e. the material witnesses, have already been examined. The petitioner is behind bars for the last about 3 ½ years. There is nothing on record to show that the petitioner is involved in any other case.

Keeping in view the arguments raised by both the sides and perusing the record, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail. Accordingly, the present petition is allowed and the petitioner is ordered to

be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

(RAJESH BHARDWAJ)  
JUDGE

02.11.2023  
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Whether speaking/reasoned : Yes/No  
Whether reportable : Yes/No