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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-62759-2023

Date of Decision: 19.12.2023

KULWINDER SINGH @ KAKA

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. J.K. Singla, Advocate
for the petitioner.

Mr. Kirat Singh Sidhu, DAG, Punjab.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.03 dated 06.01.2022 registered under Sections 302, 120-B, 201, 148, 149 IPC, 1860 (Act No.45 of 1860) at Police Station Sadar Mansa, District Mansa.

2. The present FIR came to be registered at the instance of Buta Singh son of Inderjit Singh who stated that he was an agriculturalist and a pharmacist. Jaswinder Kaur, the real aunt of his wife Amandeep Kaur was married to Jarnail Singh son of Natha Singh. She had three sons namely, Jagsir Singh @ Buta, Gurdarshan Singh @ Darsi and Kulwinder Singh @ Kakka. Gurdarshan Singh @ Darsi had died 11 months earlier. Jagsir Singh @ Buta and his mother Jaswinder Kaur were residing in their residential house constructed in their fields at Village Moosa. His brother Kulwinder Singh alias Kakka was residing at Mansa for the last 7/8 years at his residential house. Jagsir Singh @ Buta was

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of the age of 40 years and was unmarried. On the date of the occurrence at about 09.00 AM when he (complainant) was present at his house, then Jasveer Singh alias Kala son of Naib Singh telephonically informed him that one Labh Kaur wife of Babbu Singh who was working as a servant in his (complainant's) house and also at the house of Jaswinder Kaur had stated that when she (Labh Kaur) had gone to the house of Jaswinder Kaur for work, nobody had opened the gate. On this, they all went to the house of Jagsir Singh on a motorcycle and after climbing the wall, when the door of the house was opened from the inside they saw Jaswinder Kaur and Jagsir Singh alias Buta lying dead on the cots in the courtyard. Serious injuries had been inflicted upon them with sharp weapons. Thereafter, the Investigating Agency was informed of the occurrence.

During the course of investigation, the statements of witnesses were recorded under Section 161 Cr.P.C. and on the basis of the evidence and secret information it came to light that Kulwinder Singh alias Kakka (petitioner) son of Jarnail Singh (son of deceased Jaswinder Kaur and brother of deceased Jagsir Singh), Jagsir Singh alias Jagga (granted bail vide order dated 30.10.2023 passed in CRM-M-21180-2023) son of Gurcharan Singh, Akbar Khan alias Akku (granted bail vide order dated 20.11.2023 passed in CRM-M-57185-2023) son of Dara Khan, Jaskaran Singh alias Jassi (granted bail vide order dated 24.11.2023 passed in CRM-M-58057-2023) son of Sohan Singh and Rashandeep Singh @ Rashan (granted bail vide order dated 13.10.2023 passed in CRM-M-12778-2023) son of Gurpreet Singh were the accused in the present case. The offence under Section 34 IPC was deleted and the offences under Sections 148/149 IPC were added in the instant FIR.

On 12.01.2022, Bikkar Singh son of Mukan Singh (Fufar of accused Kulwinder Singh @ Kaka) got recorded his statement before the I.O.

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stating that all the accused persons had visited him on 12.01.2022 and had admitted their guilt that they had murdered the aforementioned accused.

On 13.01.2022, all the accused were arrested in the present case and a car bearing Registration No.PB-03-BE-5858 registered in the name of Dara Khan son of Dula Khan (father of accused Akbar Khan alias Akku) being driven by the accused persons at the time of their arrest was taken into police possession.

During the course of investigation, it transpired that Kulwinder Singh alias Kakka had committed the murder of his mother and brother on account of lust for land and property. Some portion of the proceeds of the crime were to be given to the other accused. Therefore, vide DDR No.33 dated 13.01.2022, the offence under Section 120-B IPC was added.

In pursuance to the disclosure statement, Jagsir Singh @ Jagga got recovered an iron knife and Jaskaran Singh alias Jassi got recovered a Gandasa.

On 14.01.2022, during the police remand, Rashandeep Singh @ Rashan got recovered a Swift Car bearing Registration No.PB-31M-4748 allegedly used in the occurrence along with a weapon i.e. Gandasa lying in the car which was subsequently found to be blood-stained though, the blood group could not be known. It was also revealed that the car in question belonged to accused Jagsir Singh alias Jagga.

Akbar Khan @ Akku got recovered an iron knife used in the occurrence and his wearing apparel.

Kulwinder Singh alias Kakka got recovered five mobile phones of all the accused persons and two silver rings stolen from the house of the deceased.

It was also found during investigation that the accused Jaskaran Singh alias Jassi and Jagsir Singh alias Jagga had destroyed the clothes worn by the accused which were bloodstained by burning them as a result of which the offence under Section 201 IPC was enhanced in the present FIR vide DDR No.49 dated 15.01.2022.

3. The learned counsel for the petitioner contends that there are two specific pieces of evidence against the petitioner. Firstly, there is the extra-judicial confession of one Bikkar Singh and there is the recovery of mobile phones and jewellery articles. Other than the two pieces of evidence, there was no other admissible evidence against the petitioner. Bikkar Singh had been examined as PW-1 whereas the complainant had been examined as PW-2. None of them had supported the case of the prosecution. The co-accused of the petitioner namely, Rashandeep Singh @ Rashan, Jagseer Singh, Akbar Khan @ Akku and Jaskaran Singh @ Jassi had been granted the concession of bail. As the petitioner was in custody since 13.01.2022 and only 03 out of the 37 prosecution witnesses had been examined so far, the Trial of the present case was not likely to be concluded anytime soon and therefore, the petitioner was entitled to the concession of bail moreso when he had clean antecedents with no other case having been registered against him.

4. On the other hand, the learned State counsel that the petitioner was the main accused and along with his co-accused brutally committed the murder of his mother and brother. The manner in which the occurrence took place did not entitle the petitioner or his co-accused to the grant of bail. He, however, concedes that Bikkar Singh, the witness of the extra-judicial confession as also the complainant-Buta Singh stand examined and have not supported the prosecution case. He also admits that the petitioner was a first-time offender, in

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custody since 13.01.2022, only 03 out of the 37 prosecution witnesses had been examined so far and that four co-accused have been granted the concession of bail.

5. I have heard the learned counsel for the parties.

6. The two material witnesses of the prosecution already stand examined and have not supported the case of the prosecution. Whether the remaining evidence available on record is sufficient to affix liability upon the petitioner and his co-accused shall be examined during the course of the Trial. Admittedly, the petitioner is stated to be in custody since 13.01.2022. Only 03 of the 37 prosecution witnesses have been examined so far and he is a first-time offender. In this view of the matter, his further incarceration is not required.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Kulwinder Singh @ Kaka son of late Jarnail Singh is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- 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 trial without sufficient cause.

9. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

19.12.2023

JITESH

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