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2024:PHHC:043688

CRM-M-7420-2024
Date of decision : 02.04.2024

Versus

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Mr. Mohit Kapoor, Sr. DAG, Punjab.

This petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioners in case F.I.R. No.38 dated 17.02.2023 registered for the offences punishable under Sections 308, 34 of the Indian Penal Code, 1860 (Sections 302, 120-B, 201 of the IPC added later on) at Police Station Sadar Patti, District Tarn Taran.

“XXX that I am the resident of the above said address and I do agricultural works. I have four sons and the elder son is Tarlochan Singh who is married to Gurmeet Kaur, younger to him is Kapur Singh who is married to Sandeep Kaur and younger to him is Kuldeep Singh who is married to Mandeep Kaur and all three sons are doing agricultural works and also some private work and the youngest son is Manjit Singh who is unmarried and has gone abroad Doha Qatar for doing the work of driving. My marriage

took place about 45 years ago with Kulwant Kaur, from the said marriage; the above said four sons were born. My wife is a household lady. Time would be about 8:30 PM on 09.02.2023, our sitting area/farm house which is situated at Toot, from where, after having dinner, she went for a walk in the Haveli constructed at our house but she did not return home for a long time. I and my son Kuldeep Singh kept on searching her in the nearby places and when we went towards the metalled road, we saw that my wife Kulwant Kaur was lying on the road covered with blood, then we arranged for some convenience and got her admitted at Guru Nanak Dev Super specialist Hospital Tarn Taran for treatment in a critical condition, where till now she is in a critical condition. Since then, I have been treating her and my daughters-in-law Gurmeet Kaur wife of Tarlochan Singh and Mandeep Kaur wife of Kuldeep Singh who were having bad characters, and in this way, my wife Kulwant Kaur used to stop them for doing wrong deeds and they used to have heated conversation very often due to this reason, and I am sure that my elder daughter-in-law Gurmeet Kaur and Mandeep Kaur residents of Toot, in connivance with each other, caused injuries to my wife Kulwant Kaur in her head and on the other body parts with the intention to kill her and giving this incident a shape of accident and threw her on the road because as soon as my wife went outside the house, my daughters-in-law went towards the Haveli side who returned back home after a long time. Today I, after consulting my family members, were going towards the police post along with my relative Gurpreet Singh son of Salwinder Singh resident of Toot for giving information, you have me us, action be taken. I have got recorded my statement, heard and is accepted as correct. Sd/- Balkar Singh above said, in presence of Sd/- Gurpreet Singh xxx”

3. Prosecution claims that during the course of investigation petitioners No.1 and 2 while in police custody confessed their crime for the reason petitioner No.1 was in illicit relationship with petitioner No.3 i.e.

Gursewak Singh. It was further claimed that on the basis of the statement made by petitioner No.1 weapon of offence was recovered.

4. Counsel for the petitioner submits that its a case of circumstantial evidence and the case projected by the prosecution is totally discrepant as the dots can't be joined and there are gaping wholes in the story projected. He further submits that there are 23 prosecution witnesses and by now only 4 could be examined. Petitioners are behind bars since 17th of February, 2023/ 19th of February, 2023. Trial is not likely to conclude in the near future and thus the petitioners are entitled for grant of regular bail.

5. Per contra, State Counsel submits that the motive of the petitioners is evident and recovery having been effect on the statement of petitioner No.1, her statement would be admissible in the light of Section 27 of the Evidence Act.

6. Counsel for the petitioner joins issue thereon and submits that even if the story being put-forth is taken on its face value, there is no motive attributed to petitioner No.2 yet she has been assigned the most active role. He further submits that Section 27 would not be attracted as there is no evidence to connect the alleged recovered iron plate to the crime.

7. State Counsel is not in position to dispute the fact that there is nothing on record that links the weapon to the crime as no effort was made to match the blood group of the deceased with the blood stains said to have been discovered on the iron plate.

8. I have heard counsel for the parties and have gone through records of the case.

9. Without commenting on the merits of the case, keeping in view the incarceration already suffered by the petitioners and the fact that whole of the case is based on circumstantial evidence, the present petition is allowed. The petitioners are ordered to be released on bail on their furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.
10. Needless to say that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

April 02, 2024		(Pankaj Jain)
Dpr		Judge
Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No