

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

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2024:PHHC:035268

CRM-M-11649-2024

Date of decision: March 12th, 2024

Kuldeep Singh alias Manak

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Hitesh Chopra, Advocate
for the petitioner.

Mr. Navdeep Singh, Deputy Advocate General, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

Petitioner is seeking the concession of bail under Section 439 of the Code of Criminal Procedure, 1973 in case FIR No.4 dated 17.01.2022 under Sections 302, 380, 411, 458, 460, 120-B of the IPC registered at Police Station Ghanie Ke Bangar, Tehsil and District Gurdaspur.

2. Learned counsel for the petitioner submits that the FIR in question, which has been annexed as Annexure P-1, was lodged by son of the deceased alleging that his father was murdered inside his house by some unknown persons, after committing theft. It has been submitted that while lodging the FIR, no suspicion had been raised by the complainant against any person much less against the petitioner; subsequently, co-accused Paramjit Kaur (daughter-in-law of the deceased) allegedly made an extra judicial confession before one Ex-Sarpanch Kuljinder Singh to the effect that since the deceased had been keeping an evil eye on her, she had confided the same into the petitioner, who had thereafter given an assurance that he would take

care of the deceased and it was pursuant thereto that the deceased was done to death inside his house. Learned counsel has submitted that on the basis of the extra judicial confession made by co-accused Paramjit Kaur, the petitioner was then nominated as an accused in the instant case. However, while stepping into the witness box, the witness of extra judicial confession and even all other material witnesses had not supported the case of the prosecution, as a result of which they were all declared hostile. Learned counsel in support has drawn the attention of this Court to the deposition of all the material witnesses including the complainant and Kuljinder Singh, which has been annexed as Annexure P-4. Learned counsel has submitted that the petitioner being innocent finds due credence from the factum of all the material witnesses having turned hostile during trial. It has also been submitted that since all the material witnesses stand examined and 23 witnesses still remain to be examined, further incarceration of the petitioner would serve no useful purpose as trial would take considerable time to conclude.

3. *Per contra*, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions from ASI Anand Singh, has not disputed that the FIR in question was lodged against unknown persons; the petitioner came to be nominated as an accused only subsequent to co-accused Paramjit Kaur making the extra judicial confession before Kuljinder Singh, Ex-Sarpanch. It has also not been disputed, on instructions, that other than the extra judicial confession made by co-accused Paramjit Kaur, there was no other evidence to connect the petitioner with the crime in question, though some recovery of the stolen jewellery was effected from his possession.

4. I have heard learned counsel for the parties and perused the material placed on record.
5. The case in hand rests on circumstantial evidence. The motive to commit the murder in question was spelt out by co-accused Paramjit Kaur in the extra judicial confession made before Ex-Sarpanch Kuljinder Singh, who as not disputed by the learned State counsel, did not support the case of the prosecution, as a result of which he was declared hostile. All the material witnesses stand examined, however, 23 witnesses still remain to be examined. Hence, the conclusion of the trial would definitely take some time.
6. In the facts and circumstances as enumerated hereinabove, the instant petition is allowed. The petitioner be admitted to bail 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.

March 12th, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No