



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

214

CRM-M-15937-2024

Date of decision: 24.09.2024

Sukhchain Singh @ Sima

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Sanjiv Kumar Yadav, Advocate
for the petitioner.

Mr. Navdeep Singh, DAG, 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.22 dated 06.03.2022 under Sections 346 of the IPC, 1860 (Sections 302, 364, 34, 473, 201 of the IPC, 1860 added lateron) registered at Police Station Ghanaur, Patiala.

2. Learned counsel for the petitioner submits that on the face of it a false and fabricated case has been planted upon the petitioner. It has been submitted that the instant case hinges on circumstantial evidence and 'motive' which is the most significant ingredient in such like cases is clearly amiss and has not even been attributed to the petitioner but to co-accused Sukhwinder Singh @ Sukha. Learned counsel has submitted that initially the FIR in question annexed as Annexure P-1 was registered at the instance of the mother of Gurjant Singh (hereinafter referred to as 'deceased') under Section 346 of the IPC, who stated that the telephone of her son was unreachable and she

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had no inkling about his whereabouts; she had some suspicion that the deceased had been detained by some unknown persons at an undisclosed location. Learned counsel has submitted that while lodging the FIR in question, no suspicion was raised regarding the involvement of the petitioner in either the disappearance of the deceased, much less his alleged murder. Learned counsel has further submitted that strangely on 12.03.2022 a supplementary statement was recorded by the complainant wherein also she did not level any allegation against the petitioner but merely stated that she had learnt from her own sources that her son had been detained by co-accused Sukhwinder Singh @ Sukha at an undisclosed location. Learned counsel submits that thereafter another twist was given to the disappearance of the deceased inasmuch as one Gurpreet Singh (cited as prosecution witness) suffered a disclosure statement on 23.07.2022 much after the deceased went missing, that he along with one of his friends Yasin (cited as prosecution witness) had received a phone call from co-accused Sukhwinder Singh @ Sukha asking both these witnesses to come to him as he wanted to teach a lesson to the deceased. Learned counsel has asserted that the role of the petitioner allegedly surfaced after co-accused Sukhwinder Singh was arrested, who stated that he along with all the co-accused, including the petitioner, had assaulted the deceased with iron rods and thereafter thrown his body into a canal. Learned counsel has submitted that on the one hand in the disclosure statement it had been stated by co-accused Sukhwinder Singh @ Sukha that the petitioner had inflicted injuries with an iron rod, however, strangely the



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weapon of offence stated to have been recovered from the petitioner was just a wooden stick which further created a dent in the case of the prosecution. Learned counsel has submitted that after the charges were framed on 22.04.2024, not even a single prosecution witness out of the 19 cited, had been examined and the case was being adjourned repeatedly to await the appearance of the prosecution witnesses. Learned counsel submits that in the aforementioned facts and circumstances and the material which has been collected in the present case to implicate the petitioner, he cannot be made to languish in custody for an indefinite period.

3. Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner, on instructions from Harmanpreet Singh, PPS, has not disputed the custody period of the petitioner and the stage of trial. It has also not been disputed that no suspicion was raised with respect to the involvement of the petitioner in the murder of the deceased by the complainant either at the time of the lodging of the FIR or even when she got her statement recorded under Section 161 of the Cr.P.C. subsequently. It has also not been disputed by the learned State counsel on instructions that even as per the statements recorded during investigation by Gurpreet Singh and Yasin, it was co-accused Sukhwinder Singh, who had telephonically asked them to reach him so as to teach a lesson to the deceased.

4. On a pointed query put to the learned State counsel, it has not been disputed that the 'motive' to commit the crime in question has not been attributed to the petitioner but to co-accused Sukhwinder



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Singh @ Sukha.

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

6. The petitioner has been in custody since 29.07.2022. The petitioner is not stated to be involved in any other criminal case. The trial would take considerable time to conclude as none of the 19 prosecution witnesses have been examined till date. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner.

7. 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.

8. Needless to add, in case the petitioner misuses the concession of bail granted to him, the State would be at liberty to seek cancellation of the same.

24.09.2024

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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