

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

209

2024:PHHC:049908

CRM-M-15879-2023

Date of decision: April 15, 2024

Kuldeep Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. H.S. Sidhu, Advocate
for the petitioner.

Mr. Amit Rana, Senior 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.85 dated 04.08.2022 under Section 364 of the IPC (Sections 302, 201, 120-B of the IPC added later on) registered at Police Station Bareta, District Mansa.

2. Learned counsel for the petitioner, *inter alia*, contends that the false implication of the petitioner in the case in hand is evident from the fact that while lodging the FIR in question, the complainant (father of the deceased) had categorically alleged that it was co-accused Jagdev Singh, who had lured the deceased to accompany him on the fateful day on the pretext of consuming liquor. Learned counsel, in support, has drawn the attention of this Court to the FIR, which has been annexed as Annexure P-1. He has further submitted that while lodging the FIR, no suspicion much less by way of a whisper was raised qua the involvement of the petitioner in the murder of deceased Jagsir Ram; it was after four days of the registration of FIR, a statement was

recorded by PW Satgur Singh, who stated that he had seen the deceased accompanying co-accused Jagdev Singh and the petitioner, soon before the deceased went missing. Learned counsel has still further submitted that there was no cogent much less convincing evidence on record to link the petitioner with the crime in question and furthermore, since the case in hand rests on circumstantial evidence, even motive to commit the crime, had not been attributed to the petitioner but to co-accused Jagdev Singh. Learned counsel has still further submitted that PW Satgur Singh, who was a witness of last seen and in whose statement, the petitioner named as an accused, had not been appearing before the trial Court to get his evidence recorded, as a result of which the case had to be adjourned by the trial Court on as many as 7 occasions. Learned counsel has thus prayed for enlarging the petitioner on bail as firstly he has clean antecedents, coupled with the fact that since the complainant has already been examined, there can be no likelihood of the petitioner intimidating or influencing the witnesses.

3. *Per contra*, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions from ASI Sukhdev Singh, has not been able to controvert the contents of the FIR, which has been annexed as Annexure P-1. He, on further instructions, has also not disputed that no suspicion was raised qua the involvement of the petitioner in the murder of deceased and it was only after four days of the registration of the FIR, the petitioner came to be nominated as an accused on the basis of a statement recorded under Section 161 of the Cr.P.C. by PW Satgur Singh (witness of last seen). Learned State counsel submits that while recording his statement under Section 161 of the Cr.P.C., PW Satgur Singh had categorically stated

that he had seen the deceased in the company of co-accused Jagdev Singh and Kuldeep Singh. Thereafter, the dead body of the deceased was recovered from a canal.

4. On a pointed query put to the learned State counsel as to what motive had been attributed to the petitioner to commit the crime in question, he on instructions, has informed the Court that the motive to commit the crime had been attributed to co-accused Jagdev Singh, who was a colleague of the deceased and suspected that it was at the behest of the deceased that he had been suspended by his employer.

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

6. The petitioner has been in custody since 09.08.2022 and till date, only two witnesses out of the 23 cited by the prosecution have been examined, which include the complainant. As not disputed by the learned State counsel on instructions, the other material witnesses i.e. PW Satgur Singh(witness of last seen) has not been appearing before the trial Court to get his evidence recorded despite the case being adjourned on multiple occasions. There is thus, no likelihood of the trial concluding in the near future.

7. 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.

April 15th, 2024

Puneet

(MANJARI NEHRU KAUL)

JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No