



CRM-M-16823-2024

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(215)

CRM-M-16823-2024
Date of Decision : 04.12.2024

Sarabjit Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. A.S. Pannu, Advocate
for the petitioner.

Ms. Manjot Kaur, AAG, Punjab.

KULDEEP TIWARI, J.(Oral)

1. Through the instant petition, filed under Section 439 Cr.P.C., a prayer is made for grant of regular bail to the petitioner, in case FIR No.0016 dated 23.02.2020 (Annexure P-1), under Sections 364 and 120-B of the IPC, 1860 (Sections 302 and 201 of the IPC, 1860, added later on), registered at Police Station Chohla Sahib, District Tarn Taran.
2. On asking of for the relief (supra), learned counsel for the petitioner made a thrust on the long incarceration suffered by the petitioner i.e. more than 04 years and 08 months, as on today, and submits that, till date, the trial has not reached even to the half mark. He submitted that most of the star prosecution witnesses have turned hostile, namely, Kulwant Singh, Gurbhej Singh, Jagir Singh and Harpal Singh. He further submits that one, Balwinder Singh son of Waryam Singh, and Gurdev Singh son of Karaj Singh, did support the case of the prosecution, but they are not an eye-witnesses. In addition, he submits that the statement of Balwinder Singh,



cannot be relied upon, as he was introduced by the prosecution, after 09 days of the occurrence. Finally, he submits that the petitioner is not involved in any other criminal case, and has clean antecedents.

3. The instant FIR was registered, on the statement made by one Avtar Singh, in which he alleges that his son Satnam Singh, on the fateful day, with his son Jashanpreet Singh, went to deliver the milk in the BSF Camp, Bhikhiwind, and his son after informing his grand-son, went to village Brampur, and thereafter, he never returned to home. The relevant extract of the FIR, reads as under :-

“12. First Information Contents: Statement of Avtar Singh 5/0 Mangal Singh R/O Singhpura P.S Bhikhiwind aged 70 years Mobile No. 94637-24865 stated that I am resident of above said address and retired from police department. I have two sons Satnam Singh aged about 45 years and younger one Lakhvinder Singh aged about 43 years and three daughters Sukhwinder Kaur, Mandeep Kaur and Sarabjeet Kaur. All my children are married. My son Satnam is married to Amandeep Kaur daughter of Jagjit Singh resident of Bathe Bhaini district Moga. They have two children Jashanpreet Singh aged 15 years and Chamkaur Singh aged 13 years. My son Satnam Singh is affected with polio as a result of which he has a limp in his right leg. Besides doing farming he does the work of selling milk also. On 17th February 2020 my son Satnam Singh along with his son Jashanpreet Singh went to distribute milk in BSF camp Bhikhiwind at about 6pm. After some time, my grandson Jashanpreet Singh returned home alone. I asked him about his father to which he replied that when they reached near the gate of BSF camp his Father told him that he has received a phone call from village Munda Pind and that he is going to village Brampur. On saying this father went on his motorcycle



make Hero company number PB-46-R-0824 to village Brampur. My son did not return home even on 18.02.2020. On 19.02.2020 I presented an application in police station Bhikhiwind regarding missing of our son Satnam Singh and we have been searching for him at our own level. My son Satnam Singh was having illicit relations with Kuljeet Kaur of our own village wife of Sarabjeet Singh resident of Singhpura. I and my family are of firm belief that my son Satnam has been kidnapped by Kuljit Kaur in connivance with her family members by calling him on phone to village Brampura with intention to kill him because we have inquired from the house of Kuljit Kaur, she also came to her parental village on 15.02.2020 and I along with my son Lakvinder Singh went to village Munda Pind parental village of Kuljeet Kaur to inquire about Satnam Singh but none of the family member of Kuljit Kaur was present there, therefore we are of the firm belief that on 17.02.2020 Kuljeet Kaur in convenience with her parental family members kidnapped my son Satnam Singh by calling him to village Brampura on 17.02.2020 with intention to kill him. I along with my son Lakhwinder Singh was going to inform police who met us on the way. Action be taken against Kurjit Kaur and her family members.

SI Baldevr Raj read the above said statement to Avtar Singh who after admitting the same as correct signed the same in Punjabi and Lakhwinder Singh verified the statement of his father. The same was attested by SI Baldevraj P.S Chohla Sahib dt. 23.02.2020.

From the above said statement offences under sections 364, 120-B IPC were made out. Ruqua was sent to police station for registration of case. Investigation was conducted.”

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4. The perusal of the FIR (supra), reflects that a suspicion has been raised by the complainant, against the present petitioner, to be one of the accused. The dead body of the deceased Satnam Singh, was recovered from Harike Patan, on dated 25.02.2020, and thereafter, the statements of some individual persons were recorded, which led to arrest of the present petitioner.

5. Coordinate Bench of this Court, considering the role and motive attributed to the present petitioner, had directed the respondent-State of Punjab, to file status report to the instant petition. This Court, by drawing an order dated 22.10.2024, in view of the status report filed by the State, had recorded that only 04 prosecution witnesses have been examined, whereas, the prosecution has cited total 26 witnesses, though, the petitioner has suffered incarceration of more than 04 years, a specific affidavit was called from the SSP concerned, disclosing therein, the reasons as to why the prosecution witnesses are not causing appearance, despite they being called by the learned trial Court concerned.

6. In deference to the directions issued (supra), an affidavit dated 26.11.2024, of Mr. Abhimanyu Rana, IPS, Senior Superintendent of Police, Tarn Taran, on behalf of the respondent-State of Punjab, furnished by the learned State counsel today in the Court. The same is taken on the record. Copy thereof, supplied to learned counsel for the petitioner.

7. The affidavit (supra), did not voice any reasons, which caused the delay in recording of the statements of the prosecution witnesses. However, it is informed to this Court that total 10 witnesses have been examined, out of 26 witnesses, and one Deputy Superintendent of Police, Sub Division Goindwal Sahib, District Tarn Taran, was appointed as an officer concerned, to ensure



the presence of the prosecution witnesses, as and when called, before the learned trial Court concerned.

8. On the other hand, learned State counsel, on instructions imparted to her from the investigating officer concerned, opposed the grant of relief of regular bail to the petitioner, and submitted that the present petitioner is one of the main accused, as he has not only kidnapped the deceased, but has also caused the injuries to him, as the deceased was having an illicit relations with the deceased's wife. She further informs this Court, that the weapon of offence has been recovered in the instant FIR, although, she fairly admits that five star prosecution witnesses have turned hostile, and did not support the case of the prosecution.

9. Learned State counsel has also placed on record the custody certificate dated 03.12.2024, qua the petitioner, today in the Court. The same is taken on record, which reflects that the petitioner has suffered incarceration of about 04 years and 09 months, as on today, and the petitioner is not involved in any other case.

10. This Court has heard the rival submissions, as made by the learned counsel for the parties concerned, and is of the view that the instant petition is amenable to be allowed for the reasons extracted hereinafter :-

- (i) that the co-accused has already been granted the concession of regular bail, vide order dated 31.05.2022, passed by coordinate Bench of this Court;***
- (ii) that the petitioner has suffered incarceration of about 04 years and 09 months, as on date;***
- (iii) that the petitioner is not involved in any other case, and has clean antecedents;***
- (iv) that the trial in the instant FIR, has not reached even upto the half mark;***



(v) that star witnesses of the prosecution has turned hostile.

11. Whether, the statement of Balwinder Singh and Gurdev Singh, would be sufficient to bring home the guilt of the present petitioner, would be the moot question, to be adjudicated by the learned trial Court concerned, at apt stage. For the purpose of deciding the instant petition for regular bail, this Court refrains itself from making any observation, in this regard.

12. However, without commenting anything on the merits of the case, considering the period of incarceration suffered by the present petitioner, the stage of trial, and the fact that the other co-accused Satnam Singh, has already been granted the concession of regular bail, by this Court, vide order dated 31.05.2022, passed in CRM-M-47827-2021, this Court deems it appropriate to enlarge the present petitioner on regular bail. Accordingly, the instant petition is **allowed**.

13. The petitioner is ordered to be released on bail on furnishing of bail bonds and surety bonds to the satisfaction of Chief Judicial Magistrate/trial Court/Duty Magistrate, concerned.

14. However, anything observed hereinabove shall have no effect on the merits of the case and is meant for deciding the present petition only.

(KULDEEP TIWARI)
JUDGE

December 04, 2024
Manpreet

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