

**219 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-M No. 19717 of 2023 (O&M)
Date of decision : 11.01.2024**

Rajwinder Singh @ Harjinder Singh @ Petitioner
Jinda
versus

State of Punjab Respondent

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :- Mr. S.S.Sandhu, Advocate for the petitioner.

Mr. J.S.Arora, DAG, Punjab along with
ASI Prabhjeet Singh

Mr. Yajur Sharma, Advocate
for the complainant.

PANKAJ JAIN, J. (ORAL)

1 This petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case F.I.R. No.121 dated 21.06.2022 registered under Sections 302/34 IPC at Police Station Ajnala, District Amritsar.

2 The matter pertains to unfortunate demise of one Harcharan Singh. A DDR came into being on 20.06.2022 at around 12.25 hrs. with respect to his missing. The same reads as under :-

“At about 12:25, it has been recorded that one application has been received at Police Station, the contents of which are as follows: To, The SHO, Police Station Ajnala. Subject: Regarding disappearance. Respected Sir, It is submitted that I, Gursharan Singh son of Angrej Singh am resident of Village Ispur, Tehsil Ajnala, District Amritsar. That Harcharan Singh is my younger brother, who is aged about 21 Years, who came to Ajnala Chowk yesterday on dated 19.06.2022 in Afternoon at about 2:00 PM and he went towards Amritsar in after sitting an

unknown white color car from Main Chowk Ajnala and till 7:00 PM, my brother's phone was ON. Thereafter his phone was Switched Off. His phone number is 62399-16514. He has not came back home till friends anywhere. from We have inquired now. & relatives but he Kindly my not application all found be registered and whereabouts of my brother be found out. I shall be thankful to you. Thanking You. Applicant Sd/- Gursharan Singh son of Angrej Singh am resident of Village Isapur, Tehsil Ajnala, District Amritsar. M. 98149-32315. Dated 20.06.2022. Today at Police Station: At this time on the above application, Rapat is entered in Roznamcha. A hue & cry notice is issued and is being sent to CRO Branch Amritsar Rural”

3 The present FIR was thereafter registered on 21.06.2022, the contents of which read as under :-

'Statement of Gursharan Singh aged about 24 Years son of Angrej Singh resident of Isapur, Mobile No 98149-32315. Stated that I am resident of above address and does agriculture work. We are two brothers. Harcharan Singh was younger to me who was aged about 21 Years and was 10+2 passed and was doing domestic work. That on dated 19.06.2022 at about 02:00 Afternoon my brother Harcharan Singh without informing us came to Ajnala with our co- villager Jagpreet Singh @ Jujj son of Mukhtar Singh resident of Isapur after sitting on his Passion Motorcycle. He called at about 3 O'clock that he is at Ajnala and will come to home after 10-15 minutes but we communicated with our brother Harcharan Singh till about 07:00 PM. After that his phone got Switched Off. When he did not came back, inquired from the co-villager boy Jagpreet Singh @ Jujj son of Mukhtar Singh resident of Isapur on the same day that my brother had gone with you and he had not returned back home till now, who told that I had dropped your brother Harcharan Singh from my Motorcycle at Ajnala Chowk and Harcharan Singh signalled and stopped a white color car and sat in it and went away. After that on dated 20.06.2022 I filed an application regarding the disappearance of my brother Harcharan Singh in the Police Station Ajnala, and the Rapat regarding disappearance was registered at Police Station Ajnala. We had spread photos of my brother in social media on WhatsApp and Facebook groups to search for my brother and were kept searching for my brother on our own. That on dated 21.06.2022 at about 08:00 AM my Uncle/Taya's son namely Sarabjit Singh son of Hardeep Singh, resident of Isapur received a call from Phone No. 97812-08019 &

Phone No. 81950-02974 that your boy whose photo you posted in the groups about missing, he was standing yesterday near Sakki Da Pul, Ajnala yesterday on 20.06.2022 at about 03:00 PM, then we kept looking for my brother Harcharan Singh near Sakki, then we came to know that my brother's dead body was lying on the track of Sakki Nala, about one kilometer West of the Sakki Pul Nala. When I and my companions reached at that place, we saw that the dead body of my brother Harcharan Singh was lying on the Sukki Nala track. Unknown persons killed my brother and brought his dead body to this place. After looking at the dead body it seems that in order to hide his identity some chemical has been used on his face and body. I and my Uncle's son were coming to inform you and you met. The call details of my brother Harcharan Singh's mobile be obtained and the unknown accused be traced out and strict action be taken against them. Aforesaid Sd/- Gursharan Singh ascertained by Sd/- Sarabjit Singh, Attested by Insp. SHO, Police Station Ajnala. Dated 21.06.2022.”

4 Statement of Tarsem Singh alleged to be eye witness was recorded on 21.06.2022, who claimed as under :-

“Stated that I am a resident of the above address and I do agricultural work. That on dated 19.06.2022, at 3.00/3.30 in the evening, I was going from Ajnala to my village Sara through Shakki Nala track for some personal. I saw that little away from Shakki Pul at Patdi Jagpreet Singh alias Jajj son of Mukhtiar Singh and Harjinder Singh resident of Riad were beating Harcharan Singh resident of Village Isapur very badly and Harcharan Singh was hit on the head and other parts of the body with deep fist blows and kicks. Due to which, Harcharan Singh got unconscious on the spot in my sight. The accused were shouting loudly that Harcharan Singh be not left alive today. Then they took out one Injection and injected the same on the arm of Harcharan Singh and they were now saying that now he wont be alive. I saw the whole incidence with my eyes. When the accused saw me at the spot, they threatened me that if you tell anyone, the same will be done with you. I have not talked about it with anyone in fear. When I came to know that Harcharan Singh has died, then I told you the whole thing, considering it my duty as a human being. I already knew Harcharan Singh, Jagpreet Singh resident of Isapur and Harjinder Singh resident of Riad. Jagpreet Singh alias Jujj resident of village Isapur and Harjinder Singh alias Jind resident of village Riad have committed bad deed by killing Harcharan Singh by

conniving with each other. They be punished as per law. Statement has been heard. It is correct.”

5 On the same day statement of one Charanjit Singh, ex-Sarpanch of Village Isapur was recorded with respect to extra judicial confession alleged to have been made by the present petitioner along with his co-accused Jagpreet Singh @ Jujj.

6 Learned counsel for the petitioner submits that collective reading of all the aforesaid documents in the light of the fact that the alleged eye witness Tarsem Singh is none else but father-in-law of Gursharan Singh the author of DDR with respect to missing of the deceased Harcharan Singh shows that the petitioner has been falsely implicated as it is highly unbelievable that prior to registration of DDR, the author thereof did not enquire with respect to whereabouts of his brother from close relatives. He further submits that the petitioner is behind bars for last more than 1 year, 4 months & 14 days and has clean antecedents. The trial is proceeding at snail's pace as no witness till date has been examined and thus the custody of the petitioner can not be prolonged as a punitive measure.

7 Per contra learned counsel for the complainant however submits that the chain of circumstances in the present case is complete. There is a statement of eye-witness which stands corroborated by the fact that 16 injuries were found on the person of the deceased and as per reply filed by the State, the cause of death opined is **hemorrhage and shock** as cumulative effect of all the injuries which has been held to be sufficient cause of death in the ordinary cause of nature.

8 Learned State counsel on instructions from ASI Prabhjeet Singh is not in a position to dispute the aforementioned factual assertions based on record.

9 Having heard rival contentions of the parties, nature of evidence and the fact that the petitioner is implicated on the basis of statement made by close relative that too after 5 days of missing of the deceased and the fact that the trial is not likely to conclude in near future as the prosecution has not been able to examine any of 23 cited witnesses till date, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.

10 Needless to say anything recorded herein shall not be construed as an expression of opinion on the merits of the case.

11.01.2024

Pooja sharma-I

(PANKAJ JAIN)

JUDGE

Whether speaking/reasoned	Yes
Whether Reportable :	No