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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-21331-2023
Date of Decision: 10.04.2024

Jatinder Gill

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Amandeep Singh Rai, Advocate
for the petitioner.

Mr. Neeraj Madan Senior D.A.G, Punjab.

HARSH BUNGER J. (ORAL)

1. Petitioner (Jatinder Gill) has filed the present petition under Section 439 of the Code of Criminal Procedure seeking grant of regular bail to the petitioner in case FIR No.09, dated 09.01.2018, under Sections 302, 201 read with Section 34 of the Indian Penal Code, 1860, registered at Police Station Division No.5, Ludhiana.
2. Custody certificate dated 09.04.2024 of the petitioner has been filed by learned State counsel in Court today, which is taken on record, subject to all just exceptions.
3. Briefly, the aforesaid case FIR was registered on the basis of the complaint made by one Jasvir Singh, stating therein, that on 30.12.2017, at

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about 05:00 A.M., his son Gurpreet Singh left the house to meet someone in Patiala and when he did not return till evening, at around 04:30 P.M., Paramjit (daughter of the complainant) called Gurpreet Singh on his mobile phone, but it was responding as switched off. Next day on 31.12.2017, the complainant tried to call his son- Gurpreet Singh many a times but, the position remained the same. Thereafter, on 01.01.2018, a missing report was lodged by uncle of the complainant- Jagir Singh in the Police Station Hathur. On 06.01.2018, Harman s/o Kewal Singh, came to the house of complainant and told him that he went to Ludhiana on 30.12.2017, where he talked to Gurpreet Singh-son of the complainant on phone and Gurpreet Singh told him that he is at the bus stand of Ludhiana, where one Lovedish, resident of Mohru, District Jalandhar and one Gill, resident of Lambda, District Jalandhar are coming to collect some photographs of some one from him. It is further averred by the complainant that even after searching, the whereabouts of his son was not known. Complainant has suspicion that both the above said persons may have killed his son-Gurpreet Singh and destroyed his dead body. Accordingly, the aforesaid FIR was registered.

4. On 19.09.2023, the following order was passed by a Co-ordinate Bench of this Court:

Short reply by way of affidavit of Jasroop Kaur Batth (IPS) ACP, Civil Lines, Ludhiana, District Police Commissionerate Ludhiana filed on behalf of respondent-State and the same is taken on record. Copy thereof supplied to the opposite side. Para 5 of the affidavit reads as under:-

“v. That thereupon an autopsy on the mortal human remains of the deceased was conducted and during the same, samples were withdrawn from the recovered human

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bones for DNA sampling. Additionally, the clothes found immersed in blood were forwarded to the Forensic Science Laboratory (FSL) for examination. The FSL report dated 07.02.2018, indicated that the recovered clothes containing blood stains and soil with blood traces were confirmed to be human blood. It is pertinent to mention herewith that Forensic DNA test result on the forwarded samples was inconclusive as no DNA could be isolated from the forwarded Bone Sample and the Hair Sample.”

In view of above, learned State counsel seeks time to have instructions regarding the DNA report.

Posted on 18.10.2023.

As petitioner is stated to be in custody for the last more than 5 years; therefore, till the next date of hearing, he is ordered to be released on interim bail on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court/Duty/Magistrate concerned.

5. Learned counsel for the petitioner submits that vide order dated 19.09.2023, passed by a Co-ordinate Bench of this Court, the petitioner has already been granted the concession of interim bail on his furnishing bail bonds and surety bonds. It is submitted that the petitioner has already undergone actual custody period of 5 years and 8 months till 23.09.2023, the date on which he was released from custody and since then, he has been regularly appearing before the trial Court on each and every date. It is further submitted that there are total 30 prosecution witnesses, however, only 10 witnesses have been examined till date. Hence, the conclusion of trial is likely to take some time. Accordingly, learned counsel for the petitioner submits that the petitioner is ready to abide by all the conditions as may be

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imposed by this Court or by the trial Court. Learned counsel further submits that the petitioner is also willing to furnish security in the form of Fixed Deposit Receipt (F.D.R.) before the concerned Court, so as to ensure his presence before the Court on each and every date of hearing and prays that order dated 19.09.2023, passed by a Co-ordinate Bench of this Court, granting the interim bail to the petitioner may be confirmed.

6. Leaned State counsel has opposed the plea of the petitioner for grant of regular bail on the ground of seriousness and gravity of the offence, however, he concedes the factum of granting of interim bail to the petitioner vide order dated 19.09.2023, by a Co-ordinate Bench of this Court. It is not disputed that the petitioner has been appearing before the trial Court on each and every date of hearing and till date only 10 witnesses have been examined out of total 30 prosecution witnesses. However, learned State counsel states that since serious and grave charges are alleged against the petitioner, hence there is every probability that he may influence the witnesses and delay the trial, considering the fact that almost 20 witnesses are yet to be examined, accordingly, prayer has been made for dismissal of the present petition.

7. I have heard learned counsel for the parties and perused the paper book as well as custody certificate dated 09.04.2024.

8. In the instant case, the petitioner was in custody since 26.01.2018 and till the time he was released on interim bail i.e. on 23.09.2023, the petitioner had undergone custody for 5 years 8 months. Further, till date only 10 witnesses out of total 30 prosecution witnesses have been examined, therefore, this Court has reason to believe that the trial is

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likely to take some time to conclude.

9. So far as the apprehension expressed by learned State counsel that the petitioner may influence the witnesses or may even abscond in order to delay the trial, suffice it to state that in the event of any such conduct, the prosecution can always approach the competent Court for cancellation of bail. Accordingly, it is observed that the State/Prosecuting Agency/State police shall be at liberty to observe the behaviour of the petitioner during the bail period, and in case it feels that the petitioner is indulging in influencing any of the witnesses or tampering with the prosecution evidence in any manner or otherwise causing interference with the progress of trial, it shall be open for the State/Prosecuting Agency/State police to move to the trial Court for cancellation of the bail, which shall be decided by the trial Court on merits.

10. Since the petitioner is regularly appearing before the trial Court on each and every date, the present petition is allowed and the ad-interim order dated 19.03.2023 passed by a Co-ordinate Bench of this Court is made absolute. The petitioner shall continue to appear before the trial Court on each and every date unless specifically exempted on a particular date. In order to ensure presence of the petitioner before trial Court during trial, the petitioner (or anyone on his behalf) shall prepare a Fixed Deposit Receipt (F.D.R.) in the sum of Rs.50,000/- and submit the same with the trial Court. The same would be liable to be forfeited as per law, in case the petitioner remains absent from trial without any sufficient cause.

11. The petitioner shall also inform the concerned Station House Officer about his address at which he intends to reside during the pendency

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of case/trial and any change in the address shall be communicated to the concerned Station House Officer, forthwith. The petitioner would also furnish his telephone number to the concerned Station House Officer. He would also furnish his undertaking to the effect that he will not indulge in any illegal activity. The petitioner shall also appear before the concerned Police Station/Station House Officer on first Monday of every month till the conclusion of trial.

12. Nothing expressed hereinabove shall be construed to be an observation on merits of the case and the facts and circumstances recorded above are only for consideration of the prayer for bail at this stage.

13. The petition is accordingly disposed of.

14. All pending application(s), if any, shall also stand closed.

10.04.2024
Himani

(HARSH BUNGER)
JUDGE

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| 1. Whether speaking/reasoned | : | Yes/No |
| 2. Whether reportable | : | Yes/No |