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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-20676-2024
Date of decision : 01.05.2024

HEERA SINGHPetitioner

Versus

STATE OF PUNJABRespondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Savreet Brar, Advocate for the petitioner.

Mr. Mohit Kapoor, Sr. DAG, Punjab.

PANKAJ JAIN, J. (ORAL)

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.147 dated 18.07.2023 registered for the offences punishable under Sections 302 IPC (Section 120 B IPC added later on) at Police Station Sultanpur Lodhi, District Kapurthala

2. Custody Certificate of the petitioner has been filed today in Court. The same is taken on record.

3. Mr. Atul Jain, Advocate appears and files his power of attorney on behalf of the complainant today in Court, which is taken on record.

4. As per the contents of the FIR it was alleged as under :

“Statement of Angrej Singh s/o Didar Singh r/o Village Sarupwal, Post Office Giddarpindi, Tehsil Sultanpur Lodhi, District Kapurthala now residing at Baba Jawala Singh Nagar Tehsil Sultanpur Lodhi, District Kapurthala. Stated that I am resident of aforementioned address and I'm agriculturist by profession and I

have two children. My elder daughter namely, Simranjeet Kaur aged 12 years and younger son namely Karanvir Singh aged 10 years studies in 4th class in Akal Academy School. Yesterday on 17.07.2023 I along with my wife namely, Charanjit Kaur and two children went to Gurudwara Mata Sulakhani Ji Opposite Guru Nanak Stadium, Sultanpur Lodhi for purpose of community service. On that day due to occasion of 'Amavasya' the Gurudwara had a large gathering of devotees, hence I took my wife and children with me. There I saw daughter-in-law of my aunt (massi) namely, Rajbir Kaur w/o Late Harjit Singh r/o Baba Jawala Singh Nagar Sultanpur Lodhi who had also come to Gurudwara for doing community service. Till around 12:30 noon, my son was doing community service but later I couldn't find my son and even my aunt's daughter-in-law, Rajbir Kaur could not be found in the above mentioned Gurudwara premises. When we started searching for my son, we came across one CCTV footage in which I saw Rajbir Kaur taking my son away. Today I got to know about one dead body of a male child that had been found in the canal situated opposite to Busawal road and Peer Gaib Gazi Ji upon which me and Nishan Singh s/o Ajit Singh r/o Village Jawanda Kalan P.S. Sarhali Kalan Distt. Tarn Taran reached at the spot and identified the dead body as that of my missing son's namely Karanvir Singh about which we informed the police. Rajbir Kaur had an illicit relationship with my brother Heera Singh s/o Didar Singh@ Dara Singh, on 2-3 occasions we caught them in compromising position and few days back an altercation took place between Rajbir Kaur and my wife Charanjit Kaur on which Rajbir Kaur threatened my wife and told her that she will teach her lesson. I believe that Rajbir Kaur took my son Karanvir Singh with an intention to kill him. She pushed him into the canal and my son died due to drowning. I want that strict legal action be taken against daughter in - law of my aunt namely Rajbir Kaur w/o Late Harjit Singh r/o Baba Jawala Singh Nagar Sultanpur Lodhi. xxx”

5. During the course of investigation, statement of wife of the complainant i.e. the mother of the victim child Charanjit Kaur was recorded

under Section 161 Cr.P.C. wherein she raised apprehension w.r.t. the role of the present petitioner. The statement reads as under :

“Stated that I am a resident of the aforementioned address and I am a home-maker. I have two children. My elder daughter namely, Simranjeet Kaur aged 12 years and younger son namely Karanvir Singh aged 10 years studies in 4th class in Akal Academy School. On 17.07.2023 I along with my husband, Angrej Singh and two children went to Gurudwara Mata Sulakhani Ji Opposite Guru Nanak Stadium, Sultanpur Lodhi for purpose of community service. On that day due to occasion of 'Amavasya' the Gurudwara had a large gathering of devotees, hence I was doing langar sewa with my husband and children. There I saw daughter-in-law of my husband's aunt (massi) namely, Rajbir Kaur w/o Late Harbans Singh r/o Baba Jawala Singh Nagar Sultanpur Lodhi who had also come to Gurudwara for doing community service. Till around 12:30 noon, my son was doing community service but later I couldn't find my son and even my husband's aunt's daughter-in-law, Rajbir Kaur could not be found in the above mentioned Gurudwara premises. When we started searching for my son, we came across one CCTV footage in which I saw Rajbir Kaur taking my son away. On 18.07.2023 We got to know about one dead body of a male child that had been found in the canal situated opposite to Busowal road and Peer Gaib Gazi Ji upon which my husband Angrej Singh and brother Nishan Singh s/o Ajit Singh r/o Village Jawanda Kalan P.S. Sarhali Kalan Distt. Tarn Taran reached at the spot and identified the dead body as that of my missing son's namely Karanvir Singh. My brother-in-law Hira Singh had sold our ancestral land and house. We asked him for our share, but he did not give us any money. A month ago, that is why we had a fight with Hira Singh and he had threatened us to watch out for our son being taken away. Hira Singh had an illicit relationship with our aunt's daughter-in-law Rajbir Kaur. Rajbir Kaur's house is also near our house. We caught Hira Singh and Rajbir Kaur several times in objectionable position. A few days ago, Hira Singh and Rajbir Kaur were caught together. Due to which I had an altercation with Rajbir Kaur and Rajbir Kaur threatened me that she will teach me a

lesson. That is why my brother-in-law Hira Singh and Rajbir Kar have conspired and killed my son Karanveer Singh by pushing him in the river. The statement was written and heard.”

6. Main accused Rajbir Kaur is stated to have suffered disclosure while in police custody dated 18th of July, 2023 to the following effect :

“In presence of below mentioned witnesses accused Rajbir Kaur w/o Late Harjit Singh r/o Baba Jawala Singh Nagar Sultanpur Lodhi disclosed during investigation that " I and Heera Singh s/o Didar Singh alias Dara Singh resident of Baba Jawala Singh Nagar Sultanpur Lodhi District Kapurthala had an illicit relationship who's house is 4-5 houses away from my house. My mother Gurmeet Kaur and I live in the house and when my mother was not at home, Hira Singh used to come to my house to meet me. Hira Singh told me that he has embezzled money by selling his brother Angrej Singh's land and common house and his brother Angrej Singh is demanding money from him. He further said that if we hurt his son then he will leave this home after his son's death. Apart from this, Charanjit Kaur, Angrej Singh's wife, had caught me and Hira Singh in comprising position 2-3 times. A few days ago, Charanjit Kaur and her husband Angrej Singh had threatened me and Hira Singh that now the day you we caught you together in objectionable condition, then on that day we will blacken your face and I also threatened Charanjit Kaur that I will teach you a lesson. On 17.07.2023 Angrej Singh, his wife Charanjit Kaur and son Karanvir Singh were serving Guru ka langar in Gurudwara Mata Sulakhni opposite to Guru Nanak Stadium Sultanpur Lodhi. I also went there for community langar, Heera Singh met me at Gurudwara and told me that I had to go to deposit the money in the bank and I should take Karanvir Singh along with me on this pretext and before I go to deposit the money I should push him into the canal and then go to deposit the money. At around 12:30 pm I lured Karanvir Singh to eat jamuns and then I crossed the Machhijoya bridge on the right hand side about 100-200 meters away from the main road there is a jamun tree on the bank of canal and pushed Karanvir Singh into the flowing water of

the canal where Karanvir Singh drowned in front of my eyes and I went to Union Bank Sultanpur Lodhi to deposit the money and from there I returned to Gurudwara Sahib and started serving and told Heera Singh about this in the Gurudwara. He said that you should not talk to anyone, I will take care of it myself. I had thrown Karanvir Singh into the flowing water of canal at instigation and conspiracy of Heera Singh. The statement was recorded, read over to the accused and signed by accused in presence of witnesses.”

7. Counsel for the petitioner submits that even if the aforesaid statements are taken on their face value, no role can be attributed to the petitioner w.r.t. offence punishable under Section 302 IPC. He further submits that there is no attribution that can constitute offence punishable under Section 120-B IPC as well. The challan already stands presented. The petitioner is behind bars for more than 9 months and 14 days.

8. Per contra, counsel for the complainant as well as State Counsel have opposed the bail plea.

9. Counsel for the complainant would submit that from the conjoint reading of the disclosure made by main accused Rajbir Kaur as well as the statement of the mother of the deceased child recorded under Section 161 Cr.P.C., it is evident that the petitioner is involved in the conspiracy and is rather the prime conspirator and thus he has been rightly booked for offence punishable under Section 302 IPC read with Section 120-B IPC. He further submits that custody is too less as none of the witnesses has been examined till date. Further submits that the motive against the petitioner is

evident from the allegations levelled by the mother of the victim in her statement during the course of investigation.

10. Having heard rival contentions of counsels representing the parties and after going through records of the case, this Court finds that even if the disclosure suffered by the main accused Rajbir Kaur is taken on its face value, it does not disclose any overt act attributable to the petitioner.

11. In view of above, without commenting on the merits of the case, keeping in view the incarceration already suffered by the petitioner, the nature of allegations and the nature of evidence against the petitioner, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

12. Needless to say that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

May 01, 2024		(Pankaj Jain)
Dpr		Judge
Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No