

CRM-M-21866 of 2024

2024:PHHC:134221



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

CRM-M-21866 of 2024
Date of decision: 15.10.2024

Gurdhian Singh
.....Petitioner

versus

State of Punjab
.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Ramdeep Partap Singh, Advocate,
for the petitioner.

Mr. Surya Kumar, AAG, Punjab.

NAMIT KUMAR, J. (ORAL)

CRM-39760 of 2024

1. This application has been filed by the applicant-petitioner under Section 482 Cr.P.C. for placing on record the zimni orders from 11.07.2023 to 17.09.2024 [Annexures P-7 to P-7 (T)] and bail orders of co-accused, namely, Kuljit Kaur and Lakhwinder Singh (Annexures P-8 and P-9).
2. Allowed as prayed for. Annexures P-7 to P-9 are taken on record subject to all just exceptions.

CRM-M-21866 of 2024

1. This petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case FIR No.0016 dated 23.02.2020 under Sections 364, 120-B IPC (Sections 302, 201 IPC added later on), registered

CRM-M-21866 of 2024

2024:PHHC:134221



at Police Station Chohla Sahib, District Tarn Taran.

2. As per prosecution version, present FIR was registered on the statement of complainant Avtar Singh, who recorded in his statement that on 17.02.2020, around at 06.00 p.m., his elder son Satnam Singh along with son Jashanpreet Singh of Satnam Singh had gone to deliver Milk at B.S.F. Camp situated in Bhikhiwind but after some time his grandson Jashanpreet Singh came back home alone. When he enquired from him about his father Satnam Singh then he replied that his father Satnam Singh had received a phone call from village Munda Pind and he said that he was going to village Brahampura and there after his father went to said village that is Brahampura on his motorcycle make Hero bearing registration number PB46-R-0824 but till date (18.02.2020) his son has not returned back. Thereafter on 20.02.2020 he lodged a missing report pertaining to his son Satnam Singh at police station Bhikhiwind. Thereafter they enquired about the whereabouts of Satnam Singh at their own level but his son Satnam Singh had an affair with Kuljit Kaur wife of Sarabjeet Singh, resident of Singhpur. He and his family had a strong belief that Kuljit Kaur along with her family members called his son telephonically to village Brahampura with the intention to abduct him because he also inquired from the house of Kuljit Kaur who on 15.02.2020 has went to her paternal home at village Munda Pind. He along with his younger son Lakhwinder Singh also went to the paternal house of Kuljit Kaur at village Munda Pind to inquire about

CRM-M-21866 of 2024

2024:PHHC:134221



Satnam Singh but they found nobody at her paternal home at which they filled with a strong belief that on 17.02.2020 Kuljit Kaur along with her family members after conspiring with each other called his son Satnam Singh at village Brahampura with the intention to kill him, abducted him. Thereafter they approached the police authorities and got register the present FIR. Further accused Sarabjeet Singh suffered disclosure statement and he stated that he along with other co-accused committed the murder of Satnam Singh. Further accused Bhupinder Singh and other also made extra-judicial confession before Kulwant Singh witness and admitted the factum of murder of Satnam Singh. The other witness namely Balwinder Singh who is witness of last seen also stated that he has saw the accused Bhupinder Singh etc. loading one dead body in the vehicle.

3. Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in the present case as he has not committed the alleged offence. He submits that petitioner has not been named in the FIR nor even in the statement of the complainant recorded before the trial Court. He submits that the petitioner has been implicated only on the basis of disclosure statement of Balwinder Singh. There is no eye-witness of the alleged occurrence and the case of the prosecution is based upon circumstantial evidence. He further submits that petitioner is in custody since 26.02.2020 i.e. for 04 years 07 months and 15 days. Learned counsel further submits that investigation in the present case is complete;

CRM-M-21866 of 2024

2024:PHHC:134221



challan has been presented; charges have been framed and out of total 26 prosecution witnesses only 05 witnesses have been examined till date. He further submits that trial is going on at a very slow pace. Earlier bail application i.e. CRM-M-568 of 2023 filed by the petitioner was withdrawn on 02.06.2023 and thereafter the case has been taken up by the trial Court for 21 times, however, the statements of other witnesses have not been recorded. He further submits that co-accused, namely, Kuljit Kaur, Lakhwinder Singh and Satnam Singh have already been granted the concession of regular bail by the trial Court and this Court respectively. Trial may take a considerable time to conclude. He further submits that no other case is pending against the petitioner. Therefore, no fruitful purpose would be served by detaining the petitioner behind bars.

4. *Per contra*, learned State counsel, while placing on record custody certificate, submits that petitioner was actively involved in the murder of Satnam Singh. However, he has not disputed that investigation in the present case is complete; challan has been presented; charges have been framed and out of total 26 prosecution witnesses only 05 witnesses have been examined; co-accused, namely, Kuljit Kaur, Lakhwinder Singh and Satnam Singh have already been granted the concession of regular bail by the trial Court and this Court respectively.

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

CRM-M-21866 of 2024

2024:PHHC:134221



6. Recently, the Hon'ble Supreme Court in ***Special Leave (Crl.) No.8523 of 2024 – Balwinder Singh v. State of Punjab and another decided on 09.09.2024*** has observed as under: -

“5. In this case, 21 prosecution witnesses have already testified and it is submitted by the State’s counsel Mr. Siddhant Sharma that 17 more witnesses are proposed to be examined after dropping 9 of the earlier cited witnesses.

6. The High Court while rejecting bail had asked for conclusion of trial within 5 months. The 5 months period stipulated by the High Court will expire at the end of this month but as noticed earlier, the prosecution proposes to examine 17 more witnesses.

7. An accused has a right to a fair trial and while a hurried trial is frowned upon as it may not give sufficient time to prepare for the defence, an inordinate delay in conclusion of the trial would infringe the right of an accused guaranteed under Article 21 of the Constitution.

8. It is not for nothing the Author Oscar Wilde in “The Ballad of Reading Gaol”, wrote the following poignant lines while being incarcerated:

*“I know not whether Laws be right,
Or whether Laws be wrong;
All that we know who be in jail
Is that the wall is strong;
And that each day is like a year,
A year whose days are long.”*

9. The incident in the present case occurred on 25.06.2020 and the petitioner was arrested soon thereafter on 26.06.2020. By now, 6 co-accused have been granted bail. As the prosecution wishes to examine 17 more witnesses, the trial is unlikely to

CRM-M-21866 of 2024

2024:PHHC:134221



conclude on a near date.

10. Considering the above and to avoid the situation of the trial process itself being the punishment particularly when there is presumption of innocence under the Indian jurisprudence, we deem it appropriate to grant bail to the petitioner – Balwinder Singh. It is ordered accordingly. Appropriate bail conditions be imposed by the learned trial court.”

7. Keeping in view the custody of the petitioner, which is 04 years 07 months and 15 days; investigation in the present case is complete; challan has been presented; charges have been framed and out of total 26 prosecution witnesses only 05 witnesses have been examined; co-accused, namely, Kuljit Kaur, Lakhwinder Singh and Satnam Singh have already been granted the concession of regular bail and the trial may take a considerable time to conclude, however, without commenting upon the merits of the case, the petitioner is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

8. The petition stands disposed off accordingly.

15.10.2024
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No