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

**CRM-M-24365-2024**

**Date of Decision: 05.08.2024**

KULDEEP SINGH

...PETITIONER(s)

Vs.

STATE OF PUNJAB

...RESPONDENT(s)

**CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT**

Present : Mr. Kshitij Bharati, Advocate  
for the petitioner.

Mr. M. S. Bajwa, DAG, Punjab.

N.S.SHEKHAWAT, J.

1. The petitioner has filed the present petition under Section 439 of the Code of Criminal Procedure with a prayer to grant him regular bail in case FIR No.36 dated 26.04.2022 under Sections 302, 201, 341, 323, 148 and 149 of Indian Penal Code, 1860 registered at Police Station Mulepur, District Fatehgarh Sahib, Punjab.

2. Learned counsel for the petitioner contends that the FIR in the present case was registered on the basis of the complaint moved by Surinder Kaur widow of late Narender Singh, resident of village Mianpur, Tehsil and District Fatehgarh Sahib. The copy of the FIR has been reproduced below:-

*“To, The Hon'ble SSP Sahib, Fatehgarh Sahib.  
Subject Application for registration of case for offence U/s,302  
IPC against Kashmir Singh S/o Kartar Singh, Gurpreet Singh  
S/o Kashmir Singh, Daljit Singh Dalli S/o Kashmir Singh,  
Kuldeep Singh S/o Charan Singh, Bhupinder Singh and Jagjit  
Singh sons of Sukhchain Singh all residents of Village Mianpur,  
P.S. Mulepur and unknown persons for surrounding  
Jashanpreet Singh S/o Balvir Singh R/o Village Chhajli, District  
Sangrur at Village Mianpur Canal, beating him and*



*subsequently killing him by throwing him in canal and for undertaking legal proceedings. Sir, it is submitted that 1, Surinder Kaur, aged around 70 years wife of Late Narinder Singh an resident of Village Mianpur, Tehsil and District Fatehgarh Sahib and request as follows: 1. That my grandson (dohta) Jashanpreet Singh, age around 22 years had been living since long at his naanka house in Village Mianpur with us. On 29.06.2019 at around 5:30 p.m. he had gone along with his friend Kulvir Singh Kala at Village's rajwaha (sua), for bathing, where our village's sarpanch Kashmir Singh S/ Kartar Singh, Gurpreet Singh S/ Kashmir Singh, Daljit Singh Dalli S/o Kashmir Singh, Kuldeep Singh S/o Charan Singh, Bhupinder Singh S/o Chain Singh, Jagjit Singh S/o Sukhchain Singh all residents of Village Mianpur, P.S. Mulepur and unknown persons had beaten up my grandson Jashanpreet Singh and his friend Kulvir Singh and the aforesaid accused had thrown my grandson in the canal with the intention to kill him, the information about which was given by us to the Police. But the Police has not yet undertaken any proceedings against the accused under the political pressure of Sarpanch, whereas the statement of witness Kulvir Singh was also written by police yesterday on 03.07.2019 after getting the dead body, who has clearly stated in his statement that on 29.06.2019 the aforesaid accused had thrown my grandson Jashanpreet Singh in the canal after beating him up. The local police is not taking action against the accused due to pressure of aforesaid Sarpanch Kashmir Singh and the political pressure, which is absolutely injustice with us. We are going from pillar to pillar for justice. We are not being heard at all. So therefore it is requested through this application that a murder case may be registered against the aforesaid accused and legal action may be taken at the earliest and the accused may be arrested and locked in jail. Thanking you, Sd/- Surinderkaur.”*

3. Learned counsel for the petitioner contends that the alleged occurrence had taken place on 29.06.2019, whereas the FIR in the present

case was registered on 26.04.2022 after a long and unexplained delay. In fact after the complaint was moved, the investigation was conducted by a Special Investigation Team (SIT), which found that there was no truth in the allegations leveled by the complainant. It was also found that the Jashanpreet Singh (since deceased) was under the influence of some intoxicating substance and had died on account of drowning. It was also discovered that Jashanpreet Singh (since deceased) had consumed liquor with his friend Kulvir Singh before coming to the canal and in the past also both of them had bathed in the canal frequently after consuming liquor in the night. The statements of witnesses were recorded, who were passing from the said location. Even while preparing a detailed report (Annexure P-2), the SIT had not only taken into consideration the statements of various witnesses, but had also taken into account the post-mortem report (Annexure P-3) as well as a report of chemical examiner (Annexure P-4).

4. Learned counsel further contends that the complainant had falsely alleged in her complaint that the accused had caused injuries to Jashanpreet Singh (since deceased) before throwing him in the canal. In fact, it is apparent from the postmortem report (Annexure P-3) that there was no mark of any external injury or any other related mark on his body. Apart from that, it is also apparent from the report of the chemical examiner (Annexure P-4) that diatom test on the body of the deceased was found to be positive, which means that the deceased was alive, when he entered the canal. This further falsifies the allegations leveled by the complainant that Jashanpreet Singh (since deceased) was beaten to death and then thrown into the canal. Learned counsel for the petitioner has further placed reliance on the report of doctors (Annexure P-5) and as per said report, the cause of death in the present case was asphyxia due to drowning, which was ante



mortem in nature and sufficient to cause death in ordinary course of nature. Learned counsel further contends that even the police had recorded the statement of Kulvir Singh after a gap of three years and he was introduced as an eye witness in the present case. In fact, the statement of Kulvir Singh further demolishes the case of the prosecution.

5. Learned counsel further contends that the statement of a witness Amrik Singh son of Swaran Singh was also recorded during the course of investigation, who stated that he had seen two persons, who were taking bath in the canal and both of them were under heavy intoxication. He had also noticed one motorcycle, which was parked near the canal. Both of them were abusing and shouting at each other and they were also throwing stones/bricks on each other. He rather tried to set up a new story altogether. Learned counsel further contends that his co-accused Kashmir Singh Sarpanch of village Mianpur has been granted the concession of anticipatory bail by this Court vide order dated 13.03.2024 passed in ***CRM-M-49447-2022*** titled as ***“Kashmir Singh Vs. State of Punjab”*** (Annexure P-11). Learned counsel for the petitioner contends that the petitioner was arrested in the present case on 06.12.2022 and he is in custody for the last more one year and seven months. Even the prosecution has relied upon 37 witnesses, but no witness has been examined so far.

6. On the other hand, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner on the ground that the petitioner and other named co-accused had assaulted Jashanpreet Singh (since deceased) and his friend Kulbir Singh. Thereafter, the accused with an intention to commit murder of Jashanpreet Singh (since deceased) threw him in the canal and dead body of Jashanpreet Singh (since deceased) was recovered on 03.07.2019. He further contends that after



completion of investigation, the final report under Section 173 Cr.P.C. has already been presented against the present petitioner. He further stated that the opinion regarding the cause of death was obtained from board of doctors and cause of death in the present case is “asphyxia” due to drowning, which is ante mortem in nature and sufficient to cause death in ordinary course of nature. Learned State counsel submits that the petitioner may influences the witnesses of the prosecution.

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

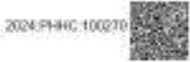
8. A status report by way of an affidavit of the Deputy Superintendent of Police, Sub Division Fatehgarh Sahib, District Fatehgarh Sahib, Punjab has been filed on behalf of the respondent-State and the same is taken on record.

9. It is an admitted fact that the occurrence in the present case had taken place on 29.06.2019 and the FIR was ultimately registered on 26.04.2022. Even the SIT had prepared a report initially (Annexure P-2), which exonerated the present petitioner and others. Furthermore, the prosecution had alleged that Jashanpreet Singh (since deceased) was given injuries and thereafter he was thrown in the canal with an intention to kill him. However, during the course of post-mortem examination, no mark of any external injury on the person of Jashanpreet Singh (since deceased) was found. Further, the petitioner is in custody since last more than one year and seven months and out of total 37 witnesses, no witness has been examined so far. Thus, the conclusion of the trial may take quite long time.

10. In view of the above, without commenting any further on the merits, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction

of the learned trial Court/Duty Magistrate/CJM concerned subject to all just conditions:-

- (i) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him to disclose such facts to the Court or to any other authority.*
- (ii) The petitioner shall remain present before the Court on the dates fixed for hearing of the case.*
- (iii) The petitioner shall not absent himself from the Court proceedings except on the prior permission of the Court concerned.*
- (iv) The petitioner shall surrender his passport, if any, (if already not surrendered), and in case he is not holder of the same, he shall swear an affidavit to that effect.*
- (v) The petitioner shall also file his affidavit before the concerned Court, mentioning his ordinary place of residence and number of mobile phone, which shall be used by him during the pendency of the trial. In case of change of place of residence/mobile number, he shall share the details with the concerned Court/learned Trial Court.*
- (vi) In case, the petitioner involved in any other criminal activity, during the pendency of the trial, it shall be viewed seriously and the prosecution shall be at liberty to move an appropriate application for cancellation of bail granted to the present petitioner.*
- (vii) The concerned Court may insist two heavy local surties and may also impose any other condition, in accordance with law, while accepting the bails bonds and surety bonds of the petitioner.*
- (viii) The petitioner shall report every 1<sup>st</sup> Monday in English calander month to the concerned SHO till the conclusion of the trial and SHO shall mark his presence by making an entry in the Rojnamcha. In case, he does not report on every 1<sup>s</sup> Monday before the concerned SHO, it shall be viewed seriously and the*



*concession granted to him shall be liable to be cancelled and the State of Punjab shall be at liberty to move an appropriate application in this regard.*

11.           Needless to observe that the above observations have been made only for the limited purpose of the disposal of the present bail application which shall not be construed as an expression of opinion on the merits of the case.

05.08.2024  
mks

(N.S.SHEKHAWAT)  
JUDGE

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