

2024:PHHC:081796



216.

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-24602-2024

Date of decision: 02.07.2024

Surinder Singh @ Sunny

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. Deepak Gupta, Advocate, for the petitioner.

Mr. Neeraj Madaan, Senior DAG, Punjab.

GURBIR SINGH, J.

1. This petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner, during the pendency of trial, in case FIR No.65, dated 26.04.2020, registered under Sections 460, 148, 149 of IPC (Sections 302, 411 and 34 of IPC added lateron) at Police Station Bullowal, District Hoshiarpur.

2. As per prosecution, the aforesaid FIR was registered on the statement of Avtar Singh with the allegation that Malkiat Singh was the son of his aunt. He was about 71 years old. He was working as Lawyer at District Court, Hoshiarpur. He had two sons. He had disinherited his elder son Harnam Singh and his younger son Tanvir Singh was studying at Chandigarh. On 26.04.2020 at about 8:45 AM, the complainant was informed by Tanvir Singh through phone that Malkiat Singh has died in the

house. The complainant reached at the house of Malkiat Singh and found that arms, legs and mouth of Malkiat Singh were tied with clothes and he had already died. All the belongings of the house were found to be searched by someone. The complainant further stated that his cousin brother Malkiat Singh was killed by some unknown persons with the intention to commit robbery or theft. During investigation, Tanvir Singh, son of the deceased, gave supplementary statement that earlier he was informed by his father that their neighbour Surinder Singh @ Sunny (petitioner herein) was in the habit of consuming drugs and he along with his friends Gurjinder Singh @ Jaggi and Sandeep Singh kept sitting on the terrace of the house of petitioner and kept looking into their house. Tanvir Singh stated that he had also seen them roaming in the village and he is sure that these persons have entered the house through terrace on the intervening night of 25/26.04.2020 and tied the hands, legs and mouth of his father and committed theft and murder. Thereafter, the Investigating Officer came to know that aforesaid accused persons including the petitioner have been nominated in case FIR No.106, dated 27.04.2020, under Sections 482, 279, 270, 401 IPC at Police Station Adampur, District Jalandhar, wherein on the disclosure statement of co-accused Sandeep Singh, who was a drug addict and in the habit of committing thefts, confessed that how they scaled the wall of the house of Malkiat Singh, committed his murder and theft in his house. Thus, the present FIR was registered against the petitioner and his co-accused.

3. Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. Initially, the present FIR was registered against unknown persons who, on the intervening night of 25/26.04.2020, entered the house of the deceased Malkiat Singh with an intention to commit robbery. He further contends that it is on the basis that FIR No.106, dated 27.04.2020, under Sections 482, 279, 270, 401 of IPC, Police Station Adampur, Jalandhar, was registered against the petitioner along with two other co-accused, namely, Gurjinder Singh @ Jaggi and Sandeep Singh and also on the basis of supplementary statement made by Tanvir Singh, son of the deceased, before the police, the petitioner and his co-accused were also involved in the present FIR. He has argued that confession before the police is not admissible in evidence and cannot be proved under Sections 25 and 26 of the Evidence Act. There is no eyewitness or any CCTV footage which shows the involvement of the petitioner in the present case.

3.1 Learned counsel further submits that the petitioner in the present case was arrested on 06.05.2020. The investigation has already been completed, challan has been filed and charges have been framed. Out of total 24 witnesses cited by the prosecution, only three witnesses have been examined so far. The trial in the case will take time to conclude. Moreover, the co-accused of the petitioner, namely, Gurjinder Singh @ Gaggi and Sandeep Singh have already been granted regular bail by this Court vide order dated 18.01.2024 passed in CRM-M-47868 of 2022 titled as

Gurjinder Singh @ Gaggi Versus State of Punjab and order dated 20.03.2024 passed in CRM-M-13407 of 2024 titled as *Sandeep Singh Versus State of Punjab* (Annexures P-3 and P-4 respectively). He further submits that the case of the petitioner is at par with them.

4. On the other hand, learned State counsel has filed the custody certificate in Court today, which is taken on record. On the basis of custody certificate, he submits that one more case i.e. FIR No.67, dated 14.06.2018, under Section 21 of NDPS Act, 1985, Police Station Doraha, District Ludhiana, is pending against the petitioner and in that case, he is on bail. He has filed short reply by way of affidavit of Narinder Singh, PPS, Deputy Superintendent of Police, Sub-Division Rural, District Hoshiarpur, in Court today, which is taken on record. He submits that the allegations against the petitioner are serious in nature and he does not deserve the concession of bail. Charges in the case were framed on 17.08.2022 against the petitioner and others and now the case is pending for 08.07.2024 for prosecution evidence. Out of 24 witnesses, three have been examined. He fairly submits that recovery of Rs.60,000/- cash and other articles has been effected from the accused persons.

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

6. Considering the fact that the petitioner is in custody for more than 4 years and 2 months and trial in the case is progressing at snails pace and further, similarly placed co-accused, namely, *Gurjinder Singh @ Gaggi*

and Sandeep Singh have already been granted regular bail by this Court vide order dated 18.01.2024 and 20.03.2024 respectively, this Court finds that no useful purpose would be served by keeping the petitioner in custody anymore.

7. Accordingly, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing personal bonds with two sureties of the same amount and one of the sureties shall be resident of District Hoshiarpur, to the satisfaction of concerned learned Chief Judicial Magistrate/Duty Magistrate subject to the following 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.

(GURBIR SINGH)
JUDGE

July 02, 2024

sanjeev

Whether speaking/reasoned: Yes/No

Whether reportable:

Yes/No