



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-26350-2024

Date of decision: 28.10.2024

Mali Khan and another

.....Petitioners

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Gopal Singh Nahel, Advocate
for the petitioners.

Mr. Amit Rana, Sr. DAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioners are seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.192 dated 26.12.2023 under Sections 302, 323, 34, 201 of the IPC registered at Police Station Sadar Dhuri, District Sangrur.

2. Learned counsel for the petitioners submits that the petitioners' false implication in the present case is evident from the fact that though the occurrence in question was alleged to be based on eye witness account, however, while stepping into the witness box, all the three material witnesses i.e. the complainant and two other witnesses had not supported the case of the prosecution as a result of which they were declared hostile. In support, learned counsel has drawn the attention of this Court to the depositions of all the three material witnesses, which have been annexed as Annexures P-6 to P-8. Learned counsel submits that in the circumstances, further incarceration of the



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petitioners, who have been in custody since 28.12.2023, would serve no useful purpose.

3. Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioners, on instructions from SI Tarsem Singh, has not disputed that all the three material witnesses, who allegedly witnessed the crime in question, had been declared hostile during trial. However, learned State counsel had drawn the attention of this Court to the allegations levelled in the FIR against the petitioners, which stands reproduced hereinunder:-

“copy of the original statement of Jarnail Khan son of Sohna Khan son of Fajal Khan resident of Bhalwan Police Station Sadar Dhuri aged about 50 years phone number 94633-30879 stated that I am a resident of the said address. I used to drive little elephant on rental basis. We are seven brothers and sisters. All are married. I am the eldest, then Praveen w/o Sitar Khan is younger than me, Aman wife Mustaq Khan is younger than him from Lasoi District Malerkotla, Reena wife Mali Khan is younger than him and Raj wife Salamdin from Ghanoor Khurd Teh. Dhuri, Binder Salamat wife Mangat Muhammad resident of Katari, the youngest is my brother Basir Khan. My sister Reena and Raj's marriage took around 17-18 years ago. Both have two children. Both of my sisters are being harassed by their husbands Mali Khan and Salamdin, their father-in-law Basir Khan and son Sarfadin, mother-in-law Melo and wife Basir Khan from the starting. But we, being girls family, kept continued to explain them. On dated 24.12.2023 we went to the wedding of my niece Jasmine daughter of Sitar Khan resident of Lasoi. Where my two sisters Reena and Raj also came. Yesterday evening on 25.12.202 both my brother's-in-law Mali Khan and Salamuddin went to Lasso by car. After putting my two sisters in the car, they started going to take them back to village Ghanour Khurd, then my elder sister Parveen also came with them to keep their clothes bag in the car, then there my two brothers-in-law Mali Khan and Salamuddin started cursing and forced my sister to return the marriage sweets, so my sister returned the sweets to my elder sister and my elder sister returned the marriage shagun to my younger sisters and then my two sisters were taken by both my brothers-in-laws in the car. Then after



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my elder sister Parveen told me all this, I called my brother-in-law Salamdin on his phone, but he turned on the phone and did not talk to me and continued to abuse my sisters on the phone and was threatening to throw them in the canal. Because of which, I along with my brother Basir, my sister-in-law Rabina Begum, my sister Parveen, my nephew Salamdin son of Sitar Khan resident of Lasoi, my father Sohna Khan and my son-in-law Sangat Muhammad son of Pappu Khan resident of Katari while riding in two cars reached the house of Jagtar Singh Panch in the village of Ghanour Khurd, from where we took Jagtar Singh Panch and reached my sister's house. It would be around 10:00 at night the street lights were on on the village path, so my father Sohna Khan, Jagtar Singh started to enter the house with panch, then my brother-in-law Mali Khan and Salamuddin grabbed my father Sohna Khan by the arms and threw him down and both of them and their father Basir Khan kicked my father while he was lying down on his private parts and stomach with legs, then my father screamed marta marta, then me and my sister-in-law Rabina Begum came forward to rescue him, then Basir Khan picked up the iron tool lying there and hit towards my head which hit on my forehead on right side. On the other side, my sisters mother- in-law Melo wife of Basir Khan picked up a brick and hit my sister-in-law Rabina Begum on the head. Then the rest of the people who went with us shouted "Don't kill, don't kill", then all of them ran away from the spot. Then my nephew Salamuddin son of Sitar Khan resident of Lasoi admitted us to Civil Hospital Dhuri for treatment where the doctor checked my father Sohna Khan and declared him dead and referred me and my sister-in-law Rabina Begum to Civil Hospital Sangrur for treatment. My father Sohna Khan's body was kept in the mortuary at Rambagh Dhuri as there was no space at the Mortuary Civil Hospital Dhuri and we entered Civil Hospital Sangrur where we are undergoing treatment. The reason for enmity is that my sister's Reena and Raj were harassed by their husbands, mother-in-law and father-in-law since the beginning. We used to prevent them from doing so. That is why all these people have bet me and my sister-in-law Rabina Begum and killed my father Sohan Khan. Appropriate legal action should be taken against them. I have recorded statement to you, read it, heard it. Narrator: Correct: Jarnail Kha verified statement: RTI:/ Rabina Begum said SD:/INSP. Jagdeep Singh 42/PR Station House Officer PS Sadar Dhuri Date 26-12-2023”



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

6. The instant case is based on eye witness account and as not disputed, the complainant as well as the other two eye witnesses, which also includes the wife of the deceased, had not supported the case of the prosecution during trial as a result of which they all were declared hostile. The trial is unlikely to conclude in the near future as 19 prosecution witnesses still remain to be examined. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioners.

7. Accordingly, the instant petition is allowed. The petitioners be admitted to bail on their furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

8. Needless to add, in case the petitioners misuse the concession of bail granted to them, the State would be at liberty to seek cancellation of the same.

28.10.2024

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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