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

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Date of Decision: 12.07.2024

Harwinder Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Aminder Singh, Advocate
for the petitioner.

Mr. Amit Rana, Sr. DAG, Punjab.

Mr. Shiv Kumar Sharma, Advocate
for the complainant.

Manjari Nehru Kaul, J.(Oral)

1. The petitioner in the instant petition is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.30 dated 04.03.2023 under Sections 302, 364, 201, 148, 149 and 120-B of the IPC, 1860, registered at Police Station Longowal, District Sangrur.

2. Learned counsel for the petitioner submits that the petitioner has been in custody since 07.03.2023 in a case rests on circumstantial evidence; the petitioner was not named in the FIR in question nor was any suspicion raised qua his involvement in the murder of Avtar Singh (hereinafter referred to as deceased). The name of the petitioner surfaced in a disclosure statement allegedly suffered by co-accused Manpal Singh who has been attributed the motive to commit the murder in question. Learned

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counsel has argued that except for the alleged disclosure statement, there was no other cogent/incriminating evidence collected by the investigating agency to connect the petitioner with the alleged crime. It has also been asserted that the petitioner did not have even any motive to commit the crime in question because as per the case of the prosecution, it was Manpal Singh who had had a quarrel with the deceased a few days prior to the occurrence in question.

3. Learned counsel for the petitioner has further submitted that after the challan was presented on 02.06.2023 and charges framed on 16.08.2023, as many as on 11 dates, the case had to be adjourned by the trial Court on account of the repeated non-appearance of the complainant. It has been urged that in the aforementioned facts and circumstances, there is no possibility of the trial concluding in the near future. Hence, the petitioner be admitted to bail.

4. Per contra, learned State counsel while opposing the prayer of learned counsel for the petitioner, on instructions from ASI Manoj Kumar, has submitted that though it is a case resting on circumstantial evidence, however, as per the disclosure statement suffered by co-accused Manpal Singh when the deceased was being inflicted injuries by the co-accused, the petitioner had held him by one of his legs. Though, he has not disputed that the petitioner has not been attributed any injury on the person of the deceased even as per the disclosure statement suffered by the co-accused Manpal. However, it has been submitted that the petitioner had helped co-accused Manpal Singh in throwing the body of the deceased into the canal.



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whether any other incriminating evidence has been collected against the petitioner, he, on instructions, has replied in the negative. Further, learned State counsel has not disputed the stage of the trial as also the factum of the complainant repeatedly absenting herself before the trial Court on as many as 11 dates.

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

7. Before proceeding further, it would be relevant to reproduce the contents of the FIR which read as under:-

“Statement of Yadwinder Kaur wife of AvtarSingh aged about 35 years Mobile No 8288884222 it is stated that I am resident of above mentioned address and is a house hold lady and married with Avtar Singh in the year 2010. I have one son namely Kamalnoor who is 11 years of age. My husband Avtar Singh used to do domestic work. On 02.03.2023 at about 8.15 PM my husband Avtar Singh was present in the house along with me at the same time Gurwinder Singh alias Chuchi came to our house and started talking with Avtar Singh and then he had taken Avtar Singh with him. After that Avtar Singh did not come back to our house and his phone was also coming switched off. I kept searching for him with my relatives till today. During my own enquiry I came to know that on 02.03.2023 during night hours Manpal Singh alias Mani along with Gurwinder Singh alias Chuchi and Rampreet Singh alias Lavi along with two more unidentified persons had taken Avtar Singh in Car make Honda City bearing No DL-CNC- 1460 at the motor situated in the fields of Rampreet alias Lavi at Qila Bharian Road. Avtar Singh was murdered by them at that place by causing injuries on his person with sharp edged weapons. The motive behind this crime was that some days ago Avtar Singh had minor quarrel with Manpal Singh alias Mani and due



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to that grudge above mentioned assailants murdered Avtar Singh and they threw his dead body in canal to destroy evidence”.

8. The petitioner has been in custody since 07.03.2023 in a case resting on circumstantial evidence. Concededly, the petitioner's name surfaced in the disclosure statement of the co-accused and he has not been attributed any injury on the person of the deceased. The trial would take time to conclude as it is a matter of record that the complainant has been repeatedly absenting herself before the trial Court as a result of which her evidence has not been recorded yet.

9. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner.

10. Accordingly, the instant petition is allowed. The petitioner be admitted to bail on his 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.

(MANJARI NEHRU KAUL)
JUDGE

12.07.2024

D.Bansal

Whether speaking/ reasoned :	Yes/ No
Whether Reportable :	Yes/ No