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

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CRM-M-28508-2023 (O&M)
Date of decision: 02.12.2024

Makhan Singh**...Petitioner****Versus****State of Punjab****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Tanvir Joshi, Advocate
for the petitioner.

Mr. A. S. Samra, AAG, Punjab.

MANISHA BATRA, J. (Oral)

1. Prayer in this petition, filed by the petitioner under Section 439 Cr.P.C., is for grant of regular bail in case bearing FIR No. 299 dated 17.11.2021, registered under Section 302 of IPC (Sections 201 and 120-B of IPC added later on) at Police Station Sadar Fazilka, District Fazilka.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on 17.11.2021 on the basis of the statement got recorded by complainant Sukhwinder Singh alleging therein that his elder sister Prakash Kaur @ Usha was married with the present petitioner about 7-8 years back. The petitioner was working in BSF. At that time, he was posted at Chattisgarh and had come on leave two months back and had gone back to join his duties on 14.11.2021. After the marriage, the petitioner had some quarrel with complainant's sister. However, the dispute was resolved with the intervention of the respectable persons. It was further stated that on 17.11.2021 at about 07:45 AM, the complainant received

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information that his sister Prakash Kaur @ Usha had been strangled to death by an unknown person in the night of 16.11.2021. He had a telephonic conversation with his sister a day before 17.11.2021 at around 5:30 PM, who had told him that an official letter had been received from the office of her husband that he had not joined back. She also informed that he had quarreled with her and his phone was switched off. While alleging that he had strong suspicions that the petitioner had killed his sister by strangulating her, the complainant prayed for taking action against him. After registration of the FIR, investigation proceedings were initiated. Inquest proceedings and post-mortem examination of the dead body of the victim were conducted. The petitioner was arrested on 18.11.2021. After completion of necessary investigation and usual formalities, *challan* was presented in the Court and presently, the petitioner along with co-accused is facing trial for commission of aforesaid mentioned offences. He had moved an application before the learned trial Court for grant of regular bail but the same had been dismissed, vide order dated 11.04.2023.

3. The present petition has been filed by the petitioner on the grounds and it has been argued by his counsel that he has been falsely implicated in this case. There is nothing on record to connect the petitioner with the subject crime. The complainant was not the eye-witness of the occurrence and had nominated the petitioner only on the basis of suspicion. No motive has been assigned to the petitioner to kill his own wife. There is delay in reporting the matter to the police, which has not been explained by the complainant. Investigation has since been completed and *challan* has been presented. Trial is likely to take time. The petitioner is on interim bail since

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21.11.2023 and he has not misused the same. No useful purpose would be served by sending him in custody again. Co-accused Binder Kaur has already been granted concession of regular bail by Hon'ble Supreme Court. Therefore, it is urged that the petition deserves to be allowed and the petitioner also deserves to be granted concession of regular bail.

4. *Per contra*, learned State counsel, in terms of the reply which is on record, has vehemently opposed the prayer of the petitioner by arguing that there are serious allegations against him. He was involved in extra marital affair with co-accused Binder Kaur and in order to perform marriage with her, he wanted to get rid of the victim. Hence, the petitioner by hatching a criminal conspiracy with co-accused Binder Kaur strangled the victim with an iron wire in a pre-planned manner. The petitioner had committed a heinous crime of killing his own wife. He does not deserve any concession by this Court. The trial is going on at a proper pace. The petitioner is on interim bail and there are chances of his intimidating the witnesses, if allowed to be out of custody. Hence, it is urged that the petition is liable to be dismissed.

5. I have heard learned counsel for the parties at considerable length and have also gone through the material placed on record.

6. The petitioner along with the co-accused Binder Kaur is alleged to have killed his own wife namely Prakash Kaur @ Usha in the night of 16.11.2021. The motive attributed to the petitioner for committing murder of his wife is that he was in extra marital affair with co-accused Binder Kaur and in order to get rid of the victim so that he could perform marriage with Binder Kaur, he in conspiracy with co-accused had killed the victim by strangulating her with an iron wire. There are serious and specific allegations against the

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petitioner. He is accused of committing murder of his own wife in a planned manner. He is on interim bail. The trial is going on. The apprehension expressed by learned State counsel that if the petitioner is permitted to remain on interim bail, he can intimidate the witnesses, cannot be stated to be unfounded. The gravity of the offence alleged is prime consideration for the Courts to grant/deny the concession of bail to an accused. So far as the claim of the petitioner seeking parity with co-accused Binder Kaur is concerned, the order dated 05.11.2024, passed by the Hon’ble Supreme Court, itself says that the petitioner cannot do so. Therefore, keeping in view the gravity of offence alleged to have been committed by the petitioner, the role attributed to him, the quantum of sentence which the conviction may entail and the attendant facts and circumstances, this Court is of the considered view that the petitioner does not deserve to be given concession of regular bail, at this stage. Hence, the petition stands dismissed. He is directed to surrender before the jail authorities within a period of 10 days from today.

7. It is made clear that the observations made hereinabove are only for the purpose of deciding the present petition and the same shall not be construed as an expression of opinion on the merits of the case.

8. Let a copy of this order be sent forthwith to Senior Superintendent of Police, Fazilka as well as to learned trial Court for intimation and necessary compliance.

02.12.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No