



**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-33147-2024

Date of Decision:-05.08.2024

Tarsem Singh @ Kalia.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Ms. Molly Tarunima Tagore, Advocate
Legal Aid Counsel for the Petitioner.

Mr. Prabhdeep Singh Dhaliwal, Assistant Advocate General,
Punjab.

Mr. Randeep Singh, Advocate with
Ms. Amanpreet Kaur, Advocate for the Complainant.

JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.78 dated 21.09.2017 under Section 302, 34 IPC (Section 148, 149, 201 IPC added later on and Section 34 IPC deleted later on) registered at Police Station Sadar, Sunam, District Sangrur.

2. The present FIR came to be registered on the statement of Neelam Rani and reads as under:-

“ Statement of Neelam Rani daughter of Mr. Munilal Caste Pandit, resident of Mehlan Police Station Chhajli, aged about 33 years Mo: No: 70872-25628, stated that "I am a resident of the said address. We are six brothers and sisters, Out of which two brothers



and four sisters, my elder sister Padma, who was married with Babu Ram son of Karan Ram, resident of Ahmedgarh. who has four children, three girls and one son, Mukesh Kumar alias Khanna alias Daddu was about 28 years old. My brother-in-law Babu Ram died about 22 years ago. That's why since that time my sister Padma along with her children have been living with me in my village. Yesterday on 20-9-17 at around 3 o'clock in the evening, my nephew Mukesh Kumar went on his motorcycle number PB13 Z 6865 by saying that I had gone to work. Will come after a while. At 6 PM Mukesh Kumar called me and told me that my friend Babandeep Singh son of Jarnail Singh has got bail and hung up the call. Mukesh Kumar did not come home till 9 pm. I and my sister Padma Devi and niece Kavita went to sleep after having dinner. Today at around 8 o'clock, Jaggi son of Baldev of our village called and told us that Mukesh Kumar has fallen on the unpaved track along the Sirhand drain near the fixed bridge. His motorcycle bearing number PB1326865 is standing. On which I along with my sister Padma who is the mother of Mukesh Kumar reached at the spot, we saw that Mukesh Kumar had fallen on the tracks. Mukesh Kumar, who had a very deep injury on the back of his head with a sharp edged weapon, a lot of blood was coming out of his head, Mukesh Kumar was dead. My nephew Mukesh Kumar has been murdered by an unknown person or persons armed with a sharp weapon in the middle of the night of 20/21-9-17. Jasvir Singh son of Shiv Singh Jatt, Jagdeep Kumar son of Basant Lal along with Rachpal Kaur wife of Ram Krishan caste Mehra residents of Mehlan came at the spot, so I left my sister Padma and Rachpal Kaur there along with Jasvir Singh, I was coming to the police station to report, that you have met me at the bus stand of Kular Khurd. I have recorded a statement to you. I heard it and read it and it is correct. Action should be taken. Deponent Sd/-Neelam Rani."



3. Pursuant to the registration of the FIR, the statement of Harpreet Singh was recorded on 01.11.2022 to the effect that on that day he had overheard the petitioner and others talking to each other about the murder of Mukesh Kumar.

4. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. In fact he had not been named in the FIR which had been registered on 21.09.2017 against unknown person. His name finds mention after a gap of 05 years on 01.11.2022 in the statement of Harpreet Singh, brother-in-law of the deceased who is apparently an interested witness. Taking the allegations to be correct, the statement of Harpreet Singh would amount to hearsay evidence at best. The extrajudicial confession made to Suresh Kumar by the present petitioner along with the other accused cannot be accepted to be true, the same having been made after a gap of 05 years. The co-accused Hardeep Singh @ Kali and Satvir Singh @ Mindi had been granted the concession of bail. As the petitioner was in custody since 02.11.2022, but none of the 19 Pws had been examined so far, the trial of the present case was not likely to be concluded anytime soon and therefore, he was entitled to the concession of bail.

4. The Counsel for the State on the other hand has filed reply by way of affidavit dated 04.08.2024 of Mr. Manoj Gors, PPS, Deputy Superintendent of Police, Sub Division, Sangrur, which is taken on record. While referring to the said reply, he contends that the petitioner and his co-accused committed the offence in question as was evident from the supplementary statement of Hardeep Singh and the extrajudicial confession to Suresh Kumar. Therefore, he was not entitled to the concession of bail.

He however, concedes that the petitioner was in custody since 02.11.2022,



none of the 19 Pws had been examined so far and that similarly situated co-accused had been granted the concession of bail vide orders dated 05.01.2024 & 21.02.2024 (Annexure P-5 & P-6) respectively.

5. The Counsels for the complainant have vehemently argued that there was sufficient evidence against the petitioner and therefore he was not entitled to the grant of bail.

6. I have heard the learned counsel for the parties.

7. The veracity of the prosecution case against the petitioner and his co-accused shall be adjudicated upon during the course of the Trial. Admittedly, the petitioner is in custody since 02.11.2022 but none of the 19 Pws have been examined so far and that two co-accused have been granted the concession of bail. Therefore, the Trial of the present case is not likely to be concluded anytime soon. In this situation the further incarceration of the petitioner is not required.

8. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-**Tarsem Singh @ Kalia** son of Sh. Jangir Singh is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

9. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other crime other than the present case.

10. If the petitioner or any of his family members/associates make any attempt to contact/threaten/intimidate the witnesses in the present case, the State would be at liberty to move an application for cancellation of bail granted vide this Court.



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11. The petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.50,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

12. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

August 05, 2024
Vinay