



CRM-M-33900-2024

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

293

CRM-M-33900-2024

Date of decision: 17th December, 2024

Amar Singh @ Aman

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Vipin Mahajan, Advocate for the petitioner.

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

MANISHA BATRA, J (ORAL):-

The present petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') by the petitioner seeking grant of regular bail in case bearing FIR No. 367 dated 28.11.2020 registered under Sections 346, 364, 302, 201, 473 read with Section 34 of IPC at Police Station Civil Lines Batala, District Gurdaspur.

2. Adumbrated facts as emanating from the record are that the aforementioned FIR had been initially registered under Section 346 of IPC on the basis of statement recorded by complainant Sukhdev Pal Singh alleging that his fifteen years' old son Karan Kumar (hereinafter to be mentioned as victim) had left home on 26.11.2020 at about 6:00 PM and did not return since then and had gone missing. After registration of FIR,



investigation proceedings were initiated. On 15.12.2020, the complainant recorded a supplementary statement alleging that on the basis of information received by him from some reliable sources as well as from the act and conduct of the accused Navjot Singh, who was his son-in-law, married to his daughter Kajal, he had come to know that it was him (Navjot Singh) who in connivance with the present petitioner, had kidnapped his son and had a hand in disappearance of his son and suspected that his son had been murdered by them. During the course of investigation, the Investigating Officer collected the call detail record of the victim as well as of the accused Navjot Singh and it was revealed that their location was found to be same on 26.11.2020 at the relevant time. The petitioner and co-accused were arrested on 19.12.2020. The carcass of the dead body of the victim was recovered in the presence of Executive Magistrate Sh. Jaskaran Singh from Haddarori situated near terminal point of the canal. The clothing and shoes of the victim were also recovered from the same place which were identified by the complainant. The samples of the carcass were sent to FSL for DNA examination. The petitioner moved an application for grant of regular bail which was dismissed by the Court of learned Sessions Judge, Gurdaspur vide order dated 27.03.2024.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. A joint disclosure statement is alleged to have been suffered by him with the co-accused, which cannot be considered to be admissible in evidence. The carcass of the dead body was recovered at the instance of the co-accused and not by him. Even the *datar* alleged to be



used for committing murder of the victim had been recovered at the instance of the co-accused and not at his instance. The tower location of the mobile phone of the petitioner was showing him to be in Amritsar on the evening of 26.11.2020 and not at Batala District from where the victim was allegedly kidnapped. No motive has been attributed to him to commit murder of the victim. Even the carcass/skeleton has not so far been proved to be that of the victim as the complainant had refused to give his own blood sample for DNA test. The material witnesses have since been examined and their evidence does not show his complicity in the subject crime. There is no eye-witness to the murder of the victim. The case is based on circumstantial evidence and no incriminating circumstance has been established against him. He is in custody for a period of four years. His further detention would not serve any useful purpose. Trial is likely to take time.

4. It is further argued that the petitioner has also been implicated on the ground that the victim was lastly seen with him and the co-accused on the evening of 26.11.2020 by PW-5 Tarsem lal but his sworn deposition is not worthy of any credit as the same suffers from material inconsistencies. With these broad submissions, it is urged that the petitioner deserves to be released on bail.

5. Status report has been filed by the respondent-State. Learned Assistant Advocate General, Punjab has argued that keeping in view the gravity of the allegations as levelled against the petitioner, he does not deserve to be released on bail. It is further submitted that the trial is going on at a fast pace and there is nothing on record to show that there would be any



undue delay in conclusion of the same. It is therefore, urged that the petition does not deserve to be allowed.

6. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record carefully.

7. The victim who was son of the complainant had gone missing in the evening of 26.11.2020. FIR was registered against unknown persons on 28.11.2020. It was on 15.12.2020 that the complainant recorded a statement raising suspicion about the involvement of the co-accused Navjot Singh who is his son-in-law and his friend i.e. the petitioner, in disappearance of his son. He further suspected that his son might have been killed by them. As per the prosecution case, the petitioner and the co-accused suffered a joint disclosure statement and in pursuance thereof, an iron datar alleged to be used for causing death of the victim and as well as the carcass of the dead body of the victim, had been recovered at the instance of the co-accused Navjot Singh. Learned counsel for the petitioner has drawn the attention of this Court to the testimony of PW-13 Jaskaran Singh, District Revenue Officer-cum-Executive Magistrate, Gurdaspur in whose presence the dead body was recovered and he is shown to have stated that it was the accused Navjot who had led the police party to the bank of the Haddarori canal from where the skeleton had been recovered. Rather, he is subsequently shown to have stated during his cross examination, by learned Assistant/Prosecutor that it was only the accused Navjot who was present with the police party at that time as per his memory and not the present



petitioner.

8. The attention of this Court has further been drawn to the testimony of PW-5 Tarsem Lal, who was a witness of the last seen. He is real brother of the complainant and has deposed that he had seen the victim while going towards Amritsar bypass in a motor bike, along with the petitioner and the co-accused and he subsequently came to know that the victim had been kidnapped and killed by them. He is also shown to have stated that he had left for Katra on 27.11.2020 and reached back only on 19.12.2020. His statement is in contrast to the PW-1 Sukhdev Pal i.e. the complainant who is shown to have stated that his brother Tarsem had accompanied him to the police station after 28.11.2020 and even that his statement has been recorded by the police within 2-3 days of recording, his own statement.

9. The petitioner has also placed on record Annexure P-3 copy of call detail record showing the location of his phone on 26.11.2020 from 11:23 AM till 7:45 PM to be at Amritsar and not at Batala, from where the victim had been allegedly kidnapped. A copy of challan report filed under Section 173 of Cr.P.C. has been placed on record as Annexure P-4 and a perusal of the same reveals that it has not been mentioned therein that the call detail record of the mobile of the present petitioner, had been collected during the course of investigation or the same showed his location to be around the area of place of occurrence at Batala. Learned Sate has also very fairly conceded about the fact that the location of the cell phone of the petitioner was not that of Batala at the relevant time. The case is based on circumstantial evidence and in view of above discussion, it is a question of



debate as to whether, the petitioner was present at the place of occurrence at all as on the relevant time and was involved in the murder of the victim. This question has to be decided on thorough assessment and evaluation of the evidence to be produced during trial. Though this Court while disposing of petition for grant of bail is not required to delve deep into the questions of merit, however, still in view of the facts as enumerated above coupled with the period of incarceration of the petitioner and on noticing the fact that the trial is likely to take time, this Court is of the considered opinion that the petitioner deserves to be released on bail during trial. Accordingly, the petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing personal/surety bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate/trial Court.

10. It is clarified that nothing discussed above shall be construed to be having any expression on the merits of the case lest the same prejudice the trial Court or the case of either of the parties in any manner whatsoever.

11. Since the main petition has been allowed, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

17th December, 2024
Parveen Sharma

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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |