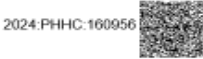


223



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-35147-2024
Date of Decision: 03.12.2024

GAGANDEEP SINGH ALIAS GAGGU
.....Petitioner

VERSUS

STATE OF PUNJAB
.....Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. M.S.Nagra Advocate,
for the petitioner

Ms. Manjot Kaur, AAG, Punjab.

KULDEEP TIWARI, J.(Oral)

1. Through the instant petition, the petitioner craves for indulgence of this Court for his being enlarged on regular bail, in case FIR No.96, dated 19.05.2022, under Sections 302 and 34 of IPC, 1860, registered at Police Station Samrala, District Ludhiana.
2. The instant case as set up by the prosecution, was registered on the statement made by one Gurwinder Singh, brother of the deceased- Yadwinder Singh. The relevant extract of the FIR reads as under:-

“Statement of Gurwinder Singh son of Bablu son of late Harbhajan Singh resident of village Mutton police station Samrala District Ludhiana age about 31 years Mobile 9877529083 Stated that I am resident of abovesaid address I am doing job in Neelo Kalan Factory We are two brothers Elder to me is YadWinder Singh age about 36 years and he is married and have three children and my brother was doing job as Driver with Dhillon Group (Liquor Contractor) from the last 10/12 years. Now he is doing job as Driver with one Liquor Contractor at Chamkaur Sahib and my brother used to come back at house after about 10/15 days and was used to go on duty on next day My brother had told to me to come at house Yesterday. Yesterday on dated 18/05/2022 at

about 10:45 PM my Bhabhi sister-in-law Sandeep Kaur received a telephonic call from the mobile of my brother Yadwinder Singh on her mobile 8437282087 and he told to my Bhabhi that he has been reached at Samrala through motorcycle of Liquor Vendor and he told on phone that he is coming to house. My Bhabhi sister-in-law kept on waiting for Y dwinder Singh for long time. After waiting long time she told this fact to our family that huge time ago she had been received a telephonic call of Yadwinder Singh but he did not come till now and his mobile is showing switched off. Upon which all family members started to search nearby surrounding area but no clue Today on dated 19.05.2022 we alongwith family members inconnection with searched of Yadwinder Singh reached at the link road of village Bhagwanpura then we saw gathering of public of Villagers in the field and we went there and here we saw that dead body of my brother Yadwinder Singh was lying on earth. There were huge injuries on his head back and other body parts and motorcycle of my brother was also lying at some distance on road side and motorcycle was broken damaged from front side. i have faith that some unknown persons by following to my brother on the midnight of dated 18/19.05.2022 while he was coming to his house from Samrala and by giving injuries to my brother has been murdered of my brother YadWinder Singh. I by leaving my family members at the site of dead of my brother Yadwinder Singh by to Balwinder Singh (cousin brother) son of Baldev resident of village Muttaon was coming to police station to intimate this incident and you met at near ITI Bridge Samrala. I have got recorded my statement to you Heard it which is correct Legal action may be taken against unknown persons.....”

3. The learned counsel for the petitioner, in his asking for the hereinabove extracted relief, submits that the case as set up by the prosecution against present petitioner, is based upon circumstantial evidence, whereas there is no legally sustainable circumstance or any evidence collected by the prosecution to connect the petitioner with the instant crime.

4. He further submits that as per the prosecution the motive is attributed to the co-accused-Amandeep Kaur and her alleged paramour Amandeep Singh.

5. He further submits that even if we go by the case of the prosecution, it was one Lachhman Singh and Amandeep Singh, who caused injury upon the deceased-Yadwinder Singh, through a baseball bat.

6. Finally, he submits that the petitioner has suffered incarceration of about 2 years and 6 months, as on today and till date, the prosecution is unable to conclude the examination of the prosecution witness, who are total 20 in numbers.

7. *Per contra*, the learned State counsel, while relying upon the status report dated, 17.09.2024, has vociferously opposed the asked for relief to the present petitioner, and submits that the petitioner is one of the co-conspirators, who from the beginning was in association with main accused Amandeep Singh, for the purpose of committing murder of deceased-Yadwinder Singh.

8. She further submits that as per the disclosure statement the petitioner was driving the vehicle and helped the co-accused Amandeep Singh and Lachhman Singh to locate the deceased and thereupon, Amandeep Singh and Lachhman Singh, committed the murder of Yadwinder Singh by causing injuries. Not only that, it was the petitioner who rammed the vehicle into the motorcycle of the deceased Yadwinder Singh, and thereupon, Amandeep Singh and Lachhman Singh, caused injuries by a baseball bat.

9. She has filed a custody certificate *qua* the petitioner today in court, which is taken on record. A perusal of the custody certificate reveals that the petitioner has suffered incarceration of 02 years 06 months and 08 days, as on today.

10. He, on instructions, imparted to him by the police official concerned, submits that after conclusion of the investigation, the final report under Section 173 Cr.P.C., had already been filed on 04.10.2022,

wherein the prosecution has cited total 20 witnesses, and till date out of them, 12 witnesses have been examined.

11. This Court has considered the rival submissions made by learned counsel for the parties concerned, and has gone through the entire case file, and is of the considered opinion that the instant petition is amenable for being **allowed**.

12. The reason for forming the above inference emanates from the factum that:-

(i) no doubt the case of the prosecution is based based upon a circumstantial evidence and whether the circumstances as mentioned by the prosecution in the final report are sufficient and legally sustainable to bring home the guilt of present petitioner, would be a moot question, which is to be decided by the learned trial court concerned, at an apt stage of the trial;

(ii) the petitioner has suffered incarceration of 02 years 06 months and 08 days, as on today;

(iii) till date, out of the total 20 prosecution witnesses, 08 witnesses are still left to be examined;

(iv) No fruitful purpose would be served by keeping the petitioner behind the bars;

(v) Trial is not likely to conclude anytime soon.

13. Considering the hereinabove made discussion, this Court deems it fit and appropriate to grant the concession of regular bail to the petitioner. Therefore, without commenting upon the merits and

circumstances of the present case, the present petition is **allowed**. The petitioner is ordered to be released on bail on furnishing of bail bond and surety bond to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

14. However, anything observed here-in-above shall have no effect on the merits of the trial, and is only meant for deciding the present petition.

15. However, it is clarified that if in future, the petitioner is found indulging in commission of similar offences, as is involved herein, the respondent-State shall be at liberty to make an appropriate application seeking cancellation of regular bail, as granted by this Court.

16. All pending application(s), if any, also stand **disposed** of accordingly.

December 03, 2024
dharamvir

(KULDEEP TIWARI)
JUDGE

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