



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRA-S No.2564 of 2024 (O&M)
Date of decision: 19.11.2024

Bhagwant Singh
.....Appellant
Versus
State of Haryana and another
.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Anil Kumar Garg, Advocate
for the appellant.
Mr. Saurabh Mohunta, DAG, Haryana.

NAMIT KUMAR J. (Oral)

CRM No.29763 of 2024

Prayer in this application is for condonation of delay of
630 days in the filing the appeal.
Heard.

For the reasons stated in the application, the same is
allowed and delay of 630 days in filing the appeal is condoned.

CRA-S No.2564 of 2024

1. Reply by way of affidavit of Mukesh Kumar, Assistant
Commissioner of Police, Rai, Sonapat, on behalf of respondent – State
is taken on record.
2. Prayer in the instant appeal filed by the appellant is for
setting-aside the order dated 04.08.2022, passed by learned Additional
Sessions Judge, Sonapat and to release him on bail in case FIR No.605

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dated 15.10.2021 registered under Sections 302, 34 IPC at Police Station Kundli, District Sonapat, in which Sections 201, 148, 149, 109, 114 IPC and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act has been added during investigation and challan has been filed under Sections 109, 114, 148, 149, 201, 302 IPC and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, during the pendency of trial.

3. As per the prosecution's case, on 15.10.2021 ASI Sandeep was employed at Police Station Kundli and at about 5.00 a.m. he received the information in the police station that in "Kisan Movement", the "Nihangs" had amputated the hand of a person and hanged him on iron barricade by tying with a rope. On which information he accompanied by Constable Pardeep and Constable Somdutt reached the spot. One person was hanging on the iron barricade on the road towards Singhu Border in the midst of Kisan Movement who had died. Many "Nihangs" were collected around that. He tried to interrogate and nobody had cooperated nor they had permitted them to remove the dead body of that person. Attempt was made to identify but it could not be identified. Unknown persons had murdered that person by amputating his hand and foot. Legal action be taken against those persons. The authorities as well as FSL team were duly informed. Offence under Section 302 / 34 IPC was made. The investigation was carried out by SI Shamsher Singh 278 RR. Spot site

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plan was prepared. Proceedings under Section 174 Cr.P.C. was also carried out. The unknown deceased was subjected to post mortem examination from Civil Hospital. The dead body was kept in the hospital for 72 hours for identification. The parcels were taken into police possession from the doctor. During investigation, it was found that unknown person was belonging to Scheduled Caste community at which Section 3(2) clause v of SC/ST Act was added. Thereafter, the investigation was carried out by DSP. During investigation Sarabjit Singh son of Kashmir Singh resident of village Bithwa P.S. Hargobindpur, Tehsil Batala, District Gurdaspur, Punjab was arrested on finding the evidence of his involvement on 15.10.2021 and he was confined in the lock up after medico legal examination. The deceased was identified as Lakhbir Singh @ Tita son of Harnam Singh (majhabi Sikh) r/o Chima Kalan, P.S. Sarai Amankhan, District Tarantaran Punjab on 16.10.2021.

The dead body was handed over to the family members for cremation. Accused Sarabjit Singh son of Kashmir Singh resident of village Bithwa P.S. Hargobindpur, Tehsil Batala, District Gurdaspur, Punjab got recorded his disclosure statement and he got recovered the sword used in the commission of the offence as per his disclosure statement during his police remand on 16.10.2021. Bhagwant and Preet Singh were also arrested on 16.10.2021 on finding the evidence of their involvement. Narain Singh aforesaid was arrested on 17.10.2021 on finding the evidence of his involvement. Narain Singh produced the

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sword and the clothes worn by him at the time of incident and also the mobile phone which were taken into police possession. Bhagwant Singh, Gobindpreet Singh and Narain Singh got recorded their respective disclosure statements. During investigation, it was found that the evidences were tampered with, therefore, Section 201 IPC and Section 25 of the Arms Act were found out and were added accordingly. Bhagwant Singh and Gobindpreet Singh got recovered the clothes which they were wearing at the time of incident which were taken into the police possession. The places of occurrence were got demarcated from them. Accused Narain Singh had got demarcated the place where he had amputated the leg of deceased Lakhbir. Sarabjeet Singh got demarcated the place where he had amputated the hand of Lakhbir Singh. From the place of occurrence, the earth soaked in the blood was taken into police possession. During investigation, the offence under Sections 148, 149, 109, 114 IPC was also found out. Section 34 of IPC was dropped and Section 148, 149, 109, 114 IPC were added. DVR of CCTV camera installed at the place of occurrence was also taken into police possession. The police remand of accused Sarabjeet, Bhagwant (appellant), Gobindpreet Singh and Narain Singh was obtained by producing them before the court. They were interrogated. After completion of their police remand they were remanded to judicial custody. On 29.10.2021 the case property and the parcels were deposited with CFSL Panchkula. Accused Aman by conspiring with his companions had murdered the deceased in a barbaric manner and

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even the mobile of the accused is also to be got recovered from accused Aman so that it may be ascertained that with whom he had talked on the date of occurrence. During investigation, Sarabjeet Singh had got recorded in his disclosure statement that he had amputated the hand of Lakhbir Singh on the instigation of Aman Singh. Similarly, Bhagwant and Gobindpreet had recorded their disclosure statement that Sarabjeet Singh had amputated the hand of Lakhbir at the instigation of Aman Singh which resulted in the death of Lakhbir Singh @ Cheeta. Challan against accused Sarabjeet, Bhagwant Singh (appellant), Govind Preet Singh and Narayan Singh has been submitted in the court on 04.01.2022. The appellant – Bhagwant Singh has been actively participated in the murder of deceased Lakhbir Singh.

4. Learned counsel for the appellant contends that the appellant is innocent and has been falsely implicated in the present case. He submits that the appellant was not named in the FIR and no overt act has been attributed to him. His name comes in the disclosure statement of co-accused. The only allegation against the appellant is that he conspired with the co-accused to commit the offence. He is in custody since 16.10.2021. He further submits that investigation is complete and challan has been presented and charges have been framed on 19.01.2024 and out of 39 prosecution witnesses, only 02 PWs have been examined so far. Therefore, the appellant may be granted the concession of bail.

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5. Per contra, learned State counsel submits that the appellant is not entitled for grant of regular bail keeping in view the role attributed to him and the gravity of offence and he prays for dismissal of the appeal.
6. I have heard learned counsel for the parties and perused the record.
7. The first bail application of the appellant was dismissed by this Court vide order dated 25.01.2023 passed in CRM-M No.41461 of 2022 by taking into account the gravity of offence and the role attributed to the appellant. However, this appeal has been preferred by the appellant solely on the ground of long incarceration.
8. Reply by way of affidavit of Mukesh Kumar, Assistant Commissioner of Police, Rai, Sonapat, is on record, according to which, the role attributed to the appellant is as follows:-

“XX XX XX XX

8. That there is sufficient evidence in the present case to establish the complicity of present petitioner/accused with the crime in question. Petitioner is involved in a brutal murder of the person, who belonged to SC/ST Community. It was the petitioner/accused who alongwith Govindpreet Singh had apprehended the deceased with the "Garanth Sahib" and on the pretext of disregard of the same, petitioner alongwith co-accused took the deceased with them, removed his clothes and took him to co-accused Aman Singh, where other persons and Nihangs were also present and petitioner with Govindpreet Singh narrated the entire incident of disregard of "Garanth Sahib" by

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deceased to Baba Aman Singh, upon which co-accused Aman Singh sent one Nihang to call Sarabjit Singh and in the meantime, petitioner alongwith other Nihangs inflicted injuries to the deceased. Thereafter, Sarabjit Singh chopped off hand of deceased with sword. Thereafter the deceased was taken to stage of Kisan Agitation and petitioner took the chopped off hand of deceased to that place, where he alongwith others hanged the deceased having head downwards and legs upwards and caused injuries to him. Petitioner can also be seen while taking the hand of deceased in his hands in the footage. Thereafter, co-accused Narain Singh chopped off the right leg of the deceased with his sword and thereafter, deceased was tied/hanged with the police barricade. All these facts have also been admitted by petitioner in his disclosure statement, pursuant to which, he got recovered his blood stained clothes and also got demarcated the places of occurrence. In this manner, there is sufficient evidence against the petitioner to connect him with the crime in question. The case is pending for prosecution evidence and if enlarged on bail, petitioner can tamper with the prosecution evidence by influencing and intimidating the witnesses and he can also hamper the trial by absconding from the process of law. As such, merely on the basis of longevity of incarceration, petitioner cannot seek the concession of bail as a matter of right. Thus, keeping in view the seriousness of offence and facts and circumstances of the case, he is not entitled to the relief of bail as claimed for.

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9. Perusal of the reply would reveal that there are particular accusations against the present appellant. He is implicated in the gruesome killing of the deceased, and has taken an active part throughout the entire incident leading to death of Lakhbir Singh @ Tita. The trial is currently at the stage of recording the evidence of the prosecution witnesses and the next date of hearing, fixed before the learned trial Court, is 02.12.2024.

10. Merely because the appellant is behind the bars since 16.10.2021 and trial is not likely to conclude in near future, is not a ground to grant bail to the appellant. The Hon'ble Supreme Court in ***Kalyan Chandra Sarkar vs. Rajesh Ranjan @ Pappu Yadav, 2004(2) RCR (Criminal) 254***, has considered this issue and observed as under:-

“13.....In the impugned order it is noticed that the High Court has given the period of incarceration already undergone by the accused and the unlikelihood of trial concluding in the near future as grounds sufficient to enlarge the accused on bail, in spite of the fact that the accused stands charged of offences punishable with life imprisonment or even death penalty. In such cases, in our opinion, the mere fact that the accused has undergone certain period of incarceration by itself would not entitle the accused to being enlarged on bail, nor the fact that the trial is not likely to be concluded in the near future either by itself or coupled with the period of incarceration would be sufficient for enlarging the appellant on bail when the gravity of the offence alleged is severe and there are

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allegations of tampering with the witnesses by the accused during the period he was on bail.

14. Learned counsel for the appellant as also learned Additional Solicitor General have pointed out to us that there are allegations of threatening of the witnesses and that the prosecution has filed an application for the recall of witnesses already examined which has been allowed, but the same is pending in revision before the High Court. In such circumstances the High Court could not have merely taken the period of incarceration and the delay in concluding the trial as grounds sufficient to enlarge the respondent on bail.”

11. Keeping in view the above facts and circumstances, considering the fact that the appellant actively participated in the alleged commission of offence, no ground for setting-aside the order dated 04.08.2022, passed by learned Additional Sessions Judge, Sonapat and to exercise the discretionary relief, for grant of bail to the appellant is made out.

12. Dismissed.

13. Any observation made hereinabove shall not to be construed as an expression of opinion on the merits of the case.

(NAMIT KUMAR)
JUDGE

19.11.2024

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No