

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-41456-2023 (O&M)

Date of Decision: 04.03.2024

Jagtar Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. D.S.Kahlon, Advocate, for the petitioner.
Mr. Gauravdeep Singh Dhaliwal, DAG, Punjab.
Mr. Umesh Aggarwal, Advocate, for the complainant.

FIR No.	Dated	Police Station	Section/s
263	05.09.2021	Jandiala Guru, Tehsil & District Amritsar	302/201 IPC

GURVINDER SINGH GILL, J. (Oral)

CRM-9248-2024

For the reasons mentioned in the application, the same is allowed and the documents annexed with the application i.e. statements of Jhirmal Singh and Jagir Singh recorded under Section 161 Cr.P.C. are taken on record subject to all just exceptions.

CRM-M-41456-2023

1. The petitioner seeks grant of regular bail in respect of aforementioned FIR.

2. The FIR was lodged at the instance of Gurmej Singh, wherein it is alleged that on 04.09.2021, his son Shamsher Singh had left home so as to meet Jagtar Singh (petitioner), who had borrowed a lot of money from his son Shamsher Singh. It is alleged that Shamsher Singh had gone to get his money back, but he did not return back home till evening. Later, the complainant received a telephonic call from one of the co-villager, namely, Bugga and also from his son-in-law Sikandar Singh informing that the dead body of Shamsher Singh was lying on the bank of water channel of village Sadhpur. Upon receipt of said information, the complainant rushed to the spot where he found the dead body of Shamsher Singh, which was found to be bearing injury marks. The complainant suspected that his son had been killed by Jagtar Singh.
3. Learned counsel for the petitioner submitted that the FIR in question came to be lodged on the basis of suspicion and that the present case is a case based totally on circumstantial evidence. Learned counsel further submitted that the prosecution mainly banked upon the testimonies of two witnesses, namely, Jhirmal Singh and Jagir Singh. While Jhirmal Singh in his statement recorded under Section 161 Cr.P.C. claims to have seen Jagtar Singh in the company of Shamsher Singh when both of them were consuming liquor, Jagir Singh in his statement under Section 161 Cr.P.C. stated that on 04.09.2021 at about 8.00 PM, he had seen Jagtar Singh throwing something wrapped in a jute bag in the water course. Learned counsel submitted that when both the aforesaid witnesses appeared in the witness-box, they did not support the case of prosecution

at all and totally resiled from their statements. It has, thus, been submitted that the petitioner, who has been behind bars since the last about 2 ½ years, deserves the concession of bail particularly when the trial is proceeding at snail's pace.

4. Opposing the petition, learned State counsel assisted by learned counsel representing the complainant submitted that having regard to the fact that the petitioner is specifically named in the FIR and that one of the witnesses had seen the petitioner in the company of the deceased and another had seen the petitioner throwing a bag containing something heavy in the water channel from where the dead body was recovered, the complicity of the petitioner is clearly evident. It has been submitted that the accused has apparently been able to win over PW-4 Jhirmal Singh and PW-5 Jagir Singh. Learned State counsel has, however, informed that the petitioner as on date has been behind bars since the last about 2 years, 5 months & 24 days and that he is not involved in any other case. It has also been informed that till date only 5 PWs out of cited 24 PWs have been examined.
5. This Court has considered rival submissions.
6. Admittedly, it is a case based on circumstantial evidence. Two of the prime witnesses, namely, PW-4 Jhirmal Singh, who claimed to have seen the deceased in the company of the petitioner just before his death and PW-5 Jagir Singh, who claimed to have seen the petitioner while throwing a bag in the water channel, have been examined by the trial Court, but they did not support the case of prosecution. In any case, the

petitioner has been behind bars since the last about 2 ½ years and otherwise has a clean record. In these circumstances, further detention of the petitioner will not serve any useful purpose as the conclusion of trial will take some time inasmuch as only 5 PWs out of cited 24 PWs have been examined till date. The petition, as such, is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

04.03.2024

Vimal

**(GURVINDER SINGH GILL)
JUDGE**

Whether speaking/reasoned: **Yes/No**
Whether reportable: **Yes/No**