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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
CRM-M-41061-2023 (O & M)
Date of decision: 13.03.2024

Krishan Singh @ Kala Petitioner
V/s

State of Punjab ...Respondent

CORAM: HON’BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. P.S. Sekhon, Advocate, for the petitioner.

Mr. Deepinder Singh Brar, Sr. DAG, Punjab.

Mr. Deep Singh, Advocate, for the complainant.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of the regular bail to the petitioner in case FIR No.143 dated 02.11.2022 under Section 364 IPC (Sections 302, 34 IPC added later on) registered at Police Station Boha, District Mansa.

2. The present FIR came to be registered at the instance of Sukhwinder Singh son of Balvir Singh and reads as under:-

"Statement of Sukhwinder Singh son of Balvir Singh, resident of Rajamajra PS Sadar Fatehabad, aged about 26 years Mobile: 97297-78036 stated that I am a resident of aforesaid address. I work as plumber, we are 5 brothers-sisters, eldest is Seema Rani who is married to Gurdev Singh, resident of Patli Dabar Ding road and younger to her, Gaganpreet Kaur who is married to Krishan Singh Kala, resident of Reond Kalan and younger to her is me, married to Amandeep Kaur, resident of Tibbi (Bhunna) and my sister Sukha Rani is married to resident of Patni Dabar Ding Road and my youngest brother Rajinder Kumar is unmarried. Me, my brother and my mother-father we all live together. My family had fixed my sister Gaganpreet

Kaur's marriage with Krishan Singh Kala, resident of Reond Kalan, about 10 years ago. From their wedlock, three daughters were born and no son was born. Due to which, illicit relations were started between my brother-in-law Krishan Singh @ Kala and Manjit Kaur @ Manjita wife of Milkha Singh, resident of Near Peera Vali Dargah, Badalgarh. Often, my brother-in-law taunted my sister to give birth to a boy and kept beating her and for settling with Manjit Kaur @ Manjita, he threatened my sister for demanding divorce. On 29.10.2022, I got a call from my brother-in-law on my mobile number 97297-78036 that your sister Gaganpreet Kaur has gone somewhere without informing us, upon which me and my father came Reonda Kalan on my motorcycle, where my brother-in-law was present who upon asking told that Gaganpreet Kaur left the house suddenly, upon which we searched for her at our relatives and other religious places but she was not found. Regarding which we kept on inquiring from Krishan Singh through conversation but he gave no satisfactory answer. That now we got to know that my brother-in-law Krishan Singh has illicit relations with Manjit Kaur @ Manjita, due to which my brother-in-law Krishan Singh and Manjit Kaur @ Manjita have abducted my sister Gaganpreet Kaur by misleading her with an intention to kill, feeling her as a hurdle in their lives. So, there should be a necessary legal action against Krishan Singh and Manjit Kaur @ Manjita. Today I along with my father was coming to PS to inform you, you have met at Serkha Maur, Boha. There should be a necessary action against them. Statement has been got recorded, have read and is correct. Sd/- Above said Sukhwinder Singh, Singh”.

3. The FIR was initially registered under Section 364 IPC and on 02.11.2022 when the dead body of the deceased-Gagandeep Kaur was found

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floating in the canal near village Sardarewala, the offence was enhanced to 302/34 IPC.

The petitioner and Manjit Kaur @ Manjita were arrested and got recovered a motor cycle purportedly used in taking away the deceased alongwith mobile phones and some currency. The cause of death was found to be 'asphyxia due to drowning'.

It transpired that the petitioner and Manjit Kaur @ Manjita had regularly been in touch on mobile phones, the SIMs of which had been purchased by the petitioner. Between 27.10.2022 and 01.11.2022 multiple calls (including 38 calls on 29.10.2022) had been found to have been exchanged between the two accused.

4. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. As per the prosecution version, the deceased was found missing on 29.10.2022. The FIR was registered on 02.11.2022 under Section 364 IPC and when the dead body was discovered in the canal, the offence under Sections 302/34 IPC was added on 02.11.2022 itself. The accused were arrested on 03.11.2022. It was only on 04.11.2022 that the statement of Gurdev Singh, a near relative of the deceased was recorded to the effect that he had seen the petitioner, deceased-Gagandeep Kaur and an unidentified woman (subsequently known to be Manjit Kaur @ Manjita) together on 29.11.2022. The cause of death was 'asphyxia due to drowning' without any corresponding injury. The telephonic conversations between the petitioner and the co-accused could only establish a motive and nothing else. As the petitioner was in custody since 03.11.2022 but none of the 19 prosecution witnesses had been

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examined so far, the Trial of the present case was not likely to be concluded anytime soon. Therefore, he was entitled to the concession of bail.

5. The learned counsel for the State and the counsel for the complainant, on the other hand, while referring to the reply dated 18.01.2024 contend that the petitioner and Manjit Kaur @ Manjita were in an illicit relationship. The petitioner had purchased two SIM cards one of which was being used by Manjit Kaur @ Manjita to communicate with the petitioner. Between 27.10.2022 and 01.11.2022 multiple calls had been exchanged between the accused and on 29.10.2022 itself 38 calls had been found to be exchanged between the accused. Gurdev Singh son of Gian Singh had categorically stated that he had seen the petitioner alongwith his wife and a second woman together on 29.11.2022 which clearly established the evidence of 'last seen' of the deceased in the company of the accused. As the motive stood established, there was evidence of 'last seen' and the recovery of a motor cycle, the chain of circumstantial evidence was complete and therefore, the petitioner was not entitled to the concession of bail. They, however, concede that the petitioner was a first-time offender, in custody since 03.11.2022 and that none of the 19 prosecution witnesses had been examined so far.

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

7. The evidentiary value of the 'last seen' evidence and call detail records shall be examined during the course of the Trial. Admittedly, the petitioner is a first-time offender, in custody since 03.11.2022 and none of the 19 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded in the near future. In this situation, the further incarceration of the petitioner is not required.

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8. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Krishan Singh @ Kala 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 case/crime other than the present one.
10. If any attempt whatsoever is made by the petitioner and/or his family members/friends to contact/threaten/intimidate any of the witnesses of the present occurrence, the State/complainant shall be at liberty to move an application for cancellation of bail granted vide this order.
11. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.2,00,000/- 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

March 13, 2024
sukhpreet

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