

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Reserved on : March 05, 2024

Pronounced on : March 11, 2024

CRM-M-42744-2023

Sukhwinder Singh alias Binder

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present: - Mr. Amanpreet Singh, Advocate for the petitioner.

Mr. Amandeep Singh, DAG, Punjab.

DEEPAK GUPTA, J.(Oral)

By way of this petition filed under Section 439 Cr.P.C., petitioner prays for his release on regular bail in case FIR No.0123 dated 15.12.2021 under Section 302 / 34 of IPC, registered at Police Station Raman, District Bathinda.

2. Status report has already been filed.

3.1 FIR was lodged on the statement of Rinka Singh S/o Nazar Singh, a Member of Helpline Welfare Society, as per which he received information at about 11 p.m. on 15.12.2021 about a person lying on the link road on the back side of Arti Palace, Village Raman. When he reached the spot, he found an unknown person aged about 30 years, lying unconscious with deep injury marks on his body and blood oozing out.

He took the unknown injured person to the hospital with the help of other persons, but the doctors declared that unknown person to be dead.

3.2 On getting the information, police reached the hospital. The dead body was later on identified to be that of Sarabjit Singh @ Sabba. The family members of deceased were informed. On 16.12.2021, Gurjit Singh, the brother of deceased alongwith other relatives joined the investigation. Statement of Gurjit Singh was recorded, as per which Sarabjit Singh @ Sabba was working as a driver on a gas tanker belonging to Padmabati Carrier Company and that on 15.12.2021, he (Gurjit Singh) had received information to the effect that his brother had been killed by some unknown persons.

3.3 It was disclosed during investigation that deceased was having mobile phone of VIVO company, in which SIM No.82645-41270 was inserted and the same had not been recovered from the place of occurrence. With the help of call detail records, it was found that said mobile had been switched off after 8 o'clock on 14.12.2021 and that another SIM No.91154-77450 was made active on that mobile after about 12 hours. The new SIM was found to have been issued in the name of Kala Singh, who was joined in the investigation and who disclosed that the SIM belonged to his son Sukhwinder Singh @ Binder (petitioner).

3.4 Petitioner was arrested on 23.03.2022 and during interrogation, he suffered disclosure statement, resulting in recovery of the mobile phone of deceased, which had been stolen from the deceased

Sarabjit Singh @ Sabba on the date of occurrence, i.e. 14.12.2021. Petitioner also nominated one Gurmeet Singh to be involved in the crime, who was arrested on 23.03.2022. During further investigation, blood stained knife allegedly used in the crime was recovered at the behest of the petitioner apart from blood stained clothes, which were worn by him at the time of occurrence. Call detail records besides customer application form alongwith certificate under Section 65B of the Evidence Act pertaining to SIM of deceased and the SIM of the petitioner were collected and it was found that on 14.12.2021, SIM of the deceased was active in his mobile, but on the next date, i.e. 15.12.2021, the SIM owned by the petitioner had been made active in the same mobile. After completion of investigation, final report under Section 173 Cr.P.C. was filed.

4.1 It is contended by learned counsel for the petitioner that petitioner has been falsely implicated on the charge of murder of Sarabjit Singh @ Sabba. Learned counsel contends that in fact, petitioner is a petty thief and that he might have committed theft of the mobile of deceased, but that cannot be a reason to connect him with the crime of murder of Sarabjit Singh @ Sabba. To support this contention, learned counsel for the petitioner has drawn attention towards the details of the cases earlier registered against the petitioner to show that he is involved in following three cases:-

Sr. No.	FIR No. and Date	Sections	Police Station
1.	09 dated 20.01.2019	457, 323 and 34 IPC	Talwandi Sabo

Page No.3 out of 6 pages

2.	170 dated 16.08.2020	379 IPC	Talwandi Sabo
3.	234 dated 29.12.2021	379B	Talwandi Sabo

Learned counsel for the petitioner contends that had the petitioner committed the murder of Sarabjit Singh @ Sabba, he would not have used his SIM in the mobile of the deceased, so as to be tracked through IMEI number.

4.2 Learned counsel also points out that blood stained clothes allegedly worn by the petitioner at the time of crime, are projected to have been recovered from the living room of his house on 27.03.2022, i.e. more than 03 months after the occurrence. It is contended that it is absolutely unbelievable that petitioner will keep his blood stained clothes in the living room of his house after such a long time. It is also contended that murder of Sarabjit Singh @ Sabba, took place in the mid of December, 2021 and there could be no question of any blood stains left on the knife and so, the knife allegedly recovered from the petitioner has been planted.

4.3 Learned counsel further contends that petitioner is in custody for the last more than 01 year and 10 months; that trial is likely to take long time to conclude and so, he be allowed bail.

With these submissions, prayer is made for grant of regular bail.

5. Learned State counsel has opposed the bail petition by submitting that mobile of the deceased was recovered from the

possession of the petitioner; that knife used in the crime besides blood stained clothes worn by the petitioner at the relevant time, were also recovered from him, and so, he is not entitled for grant of bail, having regard to gravity of the offence.

6. Submissions of both the sides have been considered.

7. Admittedly, the case is dependent upon circumstantial evidence. Information regarding the dead body was received by the complainant at about 11 p.m. on 15.12.2021. SIM No.82645-41270 of deceased Sarabjit Singh @ Sabba was active in his mobile up to 8 o'clock on 14.12.2021 and later on, it was found to be switched off and it is only on the next date, i.e. 15.12.2021 that SIM No.91154-77450 was found to be active in the same mobile. Possibility cannot be ruled out that petitioner, from whose possession mobile of the deceased has been recovered, had only committed the theft or snatching of the mobile from the deceased, as he is habitual of committing such like offences, as is evident from his criminal antecedents.

8. Apart from this, the recovery of a blood stained knife and blood stained clothes have been effected after more than 03 months from the date of crime. The report of FSL as placed on file by learned State counsel would reveal that though the human blood was detected on the knife as well as the clothes of the petitioner, but DNA profiling could not be done due to insufficient quantity and quality of amplifiable DNA. In these circumstances, it will be a matter of trial as to whether prosecution

will be able to connect the knife and blood stained as recovered from the petitioner with the crime or not.

9. Having noticed all the aforesaid facts and circumstances, this Court is of the view that no purpose shall be served by keeping the petitioner detained, as trial may take long time to conclude. Petitioner is already in custody for the last 01 year, 10 months and 06 days, as per custody certificate placed on record.

10. Consequently, present petition is allowed. Petitioner is admitted to bail. He is ordered to be released on regular bail on his furnishing bail bonds and surety bonds to the satisfaction of learned Trial Court/ Duty Magistrate concerned, on usual terms and conditions.

Allowed.

March 11, 2024

Sarita

(DEEPAK GUPTA)

JUDGE

Whether reasoned/speaking: Yes/No

Whether reportable: Yes/No