

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-44415-2023
Reserved on: 30.04.2024
Pronounced on: 02.05.2024
2024:PHHC:060610

BALJINDER SINGH @ INDA

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Amandeep S. Rai, Advocate, for the petitioner.

Mr. Gurpartap Singh Bhullar, AAG, Punjab.

Mr. Sandeep Kumar Bakolia, Advocate, for the complainant.

DEEPAK GUPTA, J.

By way of this petition filed under Section 439 CrPC, petitioner prays for his release on regular bail in case FIR No.126 dated 26.08.2020 (*Annexure P1*) registered under Sections 302/34/148/149/120-B IPC at Police Station Sidhwan Bet, Distt. Ludhiana.

2. Reply/status report filed by way of affidavit of Satvinder Singh Virk, PPS, DSP Jagraon, District Ludhiana (Rural) on behalf of respondent-State of Punjab has already been taken on record.

3.1 FIR was lodged on the complaint of Harbans Singh @ Bansa resident of Salempura, Police Station, District Ludhiana (Rural), as per which one of his younger brother Kulwant Singh (*deceased*) was living in the village with his family. Said Kulwant Singh had two children, one being daughter Manpreet Kaur aged 18-19 years. On 25.08.2020, he (Complainant) with his brother Hakam Singh visited their fields at about 7.00 PM and as they reached

near the fields of Mohinder Singh, adjoining to Village Salempura, they noticed that the bullet motorcycle of their brother Kulwant Singh was lying parked there. Dead body of Kulwant Singh was lying on the motorcycle with his untied hair, blood spilled on the left side of the motorcycle and numerous injury marks by sharp edged weapon. Kulwant Singh had died at the spot. It was alleged that some unknown persons had committed murder of Kulwant Singh with sharp edged weapons.

3.2 Police was called on the spot, who collected the physical evidence. Postmortem examination of the dead body was got conducted. Cause of death was declared to be haemorrhage and shock due to the injuries, which were ante mortem in nature and sufficient to cause death. On 27.08.2020, supplementary statement was made by the complainant, as per which he had come to know that his brother Kulwant Singh had been killed by Baljinder Singh @ Inda (*petitioner*) besides Kuldeep Singh @ Shiva, Sumit Kumar @ Akash and Kaka son of unknown because of the reason that his niece Manpreet Kaur i.e. daughter of deceased Kulwant Singh was having illicit relations with Baljinder Singh @ Inda (*petitioner*) and deceased used to prevent him. On this statement, above named accused including Manpreet Kaur were nominated as accused.

3.3 On the same day i.e. 27.08.2020, Arshdeep Singh @ Arshi made statement to the IO, as per which he used to do labour work in the fields of Gurjit Singh and that on the date of incident, he was coming back to his house on the bank of the drain on foot, when he noticed Baljinder Singh @ Inda (*petitioner*) armed with kirpan, Kuldeep Singh @ Shiva armed with iron dah wearing blood stained clothes, besides Sumit Kumar @ Akash armed with iron rod and Kaka, who were coming on the motorcycle from the backside. As

per Arshdeep Singh @ Arshi, he signaled them to stop, but they appeared to be in hurry and just crossed him. Later, he (Arshdeep Singh @ Arshi) came to know that Kulwant Singh had been killed and so, it appeared that the above named persons had committed murder of Kulwant Singh.

3.4 On 28.08.2020, Baljinder Singh @ Inda (petitioner), besides co-accused Kuldeep Singh @ Shiva, Sumit Kumar @ Akash and Manpreet Kaur were arrested. The disclosure statement suffered by Baljinder Singh @ Inda resulted in recovery of kirpan used in the crime besides mobile phone. Recoveries of weapons were also effected from the co-accused.

3.5 On 31.08.2020, Kamaljit Singh, Sarpanch of the Village Salempura made statement, as per which on 27.08.2020, Baljinder Singh @ Inda (petitioner) besides Kuldeep Singh @ Shiva, Sumit Kumar @ and Kaka had come to him and had made extra judicial confession, admitting the commission of murder of Kulwant Singh. They also disclosed about the affair of Manpreet Kaur with Baljinder Singh @ Inda (petitioner).

3.6 After completion of investigation, final report under Section 173 CrPC was presented in Court. Charges against the accused including petitioner were framed on 10.08.2021. Till the filing of the status report dated 30.11.2023, none of the prosecution witnesses had been examined.

4. During pendency of the present petition, Statements of PWs Arshdeep Singh @ Arshi (PW1); complainant-Harbans Singh @ Bansa (PW2) and that of Kamaljit Singh(PW3) are stated to have been recorded. Their copies have been placed on record by ld. counsel for the petitioner.

5.1 It is contended by ld. counsel that petitioner has been falsely implicated on the basis of supplementary statement made by the complainant after two days of the incident. It is argued that case is dependent upon

circumstantial evidence and that prosecution relies upon statement of Arshdeep Singh @ Arshi, who is alleged to have seen the petitioner and co-accused with weapons and blood stained clothes, as per his statement made to the police on 27.08.2020, besides extra-judicial confession, allegedly made by the petitioner and co-accused before Sarpanch Kamaljit Singh.

5.2 Ld. counsel contends that Kamaljit Singh, Sarpanch has not been supported prosecution version during trial; whereas, PW1-Arshdeep Singh admitted that he was close relative of the deceased and the complainant. Ld. counsel further contends that co-accused Manpreet Kaur has already been allowed bail by Coordinate Bench of this Court vide order dated 07.12.2022 passed in CRM-M-56016-2022 (Annexure P2); that petitioner is in custody for the last approximately 3 years and 8 months; that since there is a long list of 21 prosecution witnesses and only 3 of them have been examined so far, therefore, trial may take time to conclude and so, he be allowed bail.

6.1 Ld. State counsel, ably supported by counsel for the complainant opposed the bail petition. Ld. State counsel submits that PW1-Arshdeep Singh @ Arshi has fully supported the prosecution version to have seen the petitioner and co-accused with weapons and blood sustained clothes after the incident. It is argued that there was a clear motive on the part of petitioner to commit the murder of Kulwant Singh, who used to prevent Baljinder Singh @ Inda (petitioner) from meeting the deceased's daughter Manpreet Kaur, with whom he was having illicit relations and that said fact is supported by the call details records of the petitioner and the co-accused.

6.2 Ld. counsel for the complainant has also placed on record copy of the order dated 17.08.2022, passed by another Coordinate Bench of this

Court in CRM-M-418-2022, whereby bail petition of co-accused Kuldeep Singh @ Shiva was declined.

6.3 By pointing out towards the gravity of offence and with the above submissions, prayer is made for dismissal of the petition.

7. I have considered submissions of both the sides and have appraised the record carefully.

8. Admittedly, case is dependent upon circumstantial evidence. Kamaljit Singh, Sarpanch of the village before whom petitioner and co-accused allegedly made extra judicial confession, has not supported the prosecution version, as is evident from the statement made by him during trial, a copy of which has been placed on record. No doubt that Arshdeep Singh @ Arshi, examined as PW1 during trial, has supported the prosecution version, and though the fact, as to how far he is trustworthy, is to be considered by the trial Court at appropriate stage, but at the same time, it cannot be ignored that during his cross-examination, he admitted that deceased was the brother of his maternal grandfather. In case this witness had seen the petitioner and co-accused with blood stained clothes and weapons and later on came to know about the murder of Kulwant Singh, it is not explained as to why he did not approach the police immediately and rather made the statement before police on 27.08.2020.

9. Apart from the above, custody certificate reveals that petitioner is in custody for the last 3 years 7 months and 29 days. He has no other criminal case pending against him. Bail petition of co-accused Kuldeep Singh @ Shiva bearing CRM-M-418-2022 was rejected on 17.08.2022, as by that time not even a single witness had been examined. There is a long list of 21 prosecution witnesses, as noted in the order dated 07.12.2022 (Annexure P2),

qua the co-accused, out of which only 3 witnesses have been examined so far and thus, trial is likely to take a long time to conclude.

10. Having regard to all the above facts and circumstances, but without commenting anything further on merits of the case, petition is allowed. Petitioner is admitted to regular bail on his furnishing requisite bail bonds and surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned, on usual terms and conditions.

02.05.2024
Vivek

(DEEPAK GUPTA)
JUDGE

Whether reasoned/speaking: Yes
Whether reportable: Yes