

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-47207-2022

Date of decision:21.02.2024

Kulwinder Singh @ Duni

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Gaurav Sharma, Advocate for the petitioner.

Mr. Amit Rana, Sr. DAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking regular bail in case FIR No. 189 dated 31.08.2019 under Sections 308, 148, 149 and Sections 201, 302, 120-B (added later on) of IPC, 1860 registered at Police Station City Sangrur, District Sangrur during the pendency of the trial.

2. Learned counsel for the petitioner inter alia contends that the false implication of the petitioner in the case in hand is evident from the fact that when the investigation was initially carried out by the investigating agency he was found to be innocent and thus placed in column No. 2. However, subsequently during trial, application under Section 319 Cr.P.C. was moved leading to the petitioner being summoned as an additional accused. It has been further submitted that even a perusal of the FIR which has been annexed as Annexure P-1 clearly reveals that as per the case of the complainant, the petitioner had slipped away before the

deceased was allegedly inflicted fatal injuries by the co-accused. He submits that in the circumstances it was evident that the petitioner was not involved in the alleged murder or had any motive to conspire with the co-accused. Learned counsel submits that since sole material witness i.e. the complainant stands examined, his further incarceration would serve no useful purpose as 29 prosecution witnesses still remain to be examined. He further submits that the petitioner has been in custody since 30.07.2021.

3. Per contra, learned State counsel while opposing the prayer and submissions made by learned counsel for the petitioner, on instructions from ASI Hakam Singh, has informed the Court that in fact the petitioner was the brain behind the crime in question. Sufficient evidence had been gathered with respect to the petitioner making repeated phone calls to the deceased who then came to the appointed place wherein the petitioner called the co-accused to the spot, who were armed with lethal weapons; upon reaching the place of occurrence without any provocation all the co-accused attacked the deceased mercilessly. On account of the injuries sustained, the deceased died subsequently in the hospital where he was removed by the complainant who was present at the time of the alleged occurrence.

4. Learned State counsel has further submitted that since it is a case based on eye witness count and the deceased was not only promptly

shifted to the hospital but even the intimation about the alleged occurrence was given without any delay to the police by the complainant who was accompanying the deceased, there could have been no occasion for the complainant to fabricate a false version against the accused including the petitioner.

5. I have heard learned counsel for the parties and perused the material placed on record.

6. The petitioner, no doubt, has been in custody since 30.07.2021. It has also been brought to the notice of this Court that the petitioner is a man of criminal antecedents as he is involved in nine other criminal cases of heinous nature. The crime in question was committed while he was on bail in some of those criminal cases.

7. Prima facie the petitioner does come across as being the master mind and an active conspirator behind the crime in question; it was at his behest the co-accused came to the spot armed with lethal weapons; co-accused Gola thereafter inflicted repeated blows on the person of the deceased which ultimately proved to be fatal for him. He was an active conspirator of the murder in question. Furthermore, the petitioner has seemingly misused the concession of bail which has been granted to him in the other previous cases.

8. In the facts and circumstances as enumerated hereinabove, this Court does not deem it fit to enlarge the petitioner on bail.

9. At this stage, request has been made by learned counsel for the petitioner for issuing directions to the trial Court to expedite the trial in view of the long incarceration of the petitioner. The trial Court shall make earnest effort to expedite and conclude the trial at the earliest, preferably within six months.

21.02.2024

Divyanshi

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No