



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-42895 of 2024
Date of decision: 06.09.2024

Shamsher Singh @ Shera

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Umesh Aggarwal, Advocate for the petitioner.

Mr. Amit Rana, Sr. DAG, Haryana.

MANJARI NEHRU KAUL, J (ORAL)

1. Petitioner is seeking the concession of bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) in case FIR No.170 dated 20.12.2019 under Sections 302,34 IPC (Section 201 IPC added later on), registered at Police Station Sultanwind, District Amritsar.

2. Learned counsel for the petitioner submits that the instant case hinges on circumstantial evidence. Even though the petitioner was arrested way back on 29.12.2019, the trial has not yet concluded on account of non-appearances of the remaining 22 prosecution witnesses. Learned counsel while drawing the attention of this Court to the allegations levelled in the FIR, which are annexed as Annexure P-1 has submitted that while lodging the FIR, the complainant (father of the deceased) had alleged that two unknown boys had been staying in the house of his son-in-law for the past five years in connection with some business dealings, and in all likelihood those two boys who hailed from Mehte and Khanna had committed the murder of his son. Learned counsel has asserted that it is highly improbable that in case some one would have been staying in the house of a person and that too for as many as five days, the complainant party would not



have been aware of their names and would have definitely named them in the FIR, at the very first instance. Furthermore, it has been argued that no clear cut motive to commit the murder in question was forthcoming against the petitioner although the motive to commit the murder was stated to be some money dispute between the deceased and the petitioner. While drawing attention of this Court to the deposition of both the complainant and his son-in-law Jagtar Singh, which are annexed with the petition, it has still further been argued that both of them had come up with two different versions with respect to the motive to commit the crime in question. Learned counsel has submitted that although one witness of extra judicial confession Gurjant Singh did depose that the petitioner while suffering his confession before him had stated that it was on account of the money dispute that the deceased had been done to death, however, it was totally contrary to the deposition of the complainant who categorically stated that there was no money dispute between his deceased son and the petitioner. Learned counsel has further argued that other than this, there was no other incriminating evidence collected by the Investigating agency to connect the petitioner with the crime in question. Furthermore, it has been submitted that since all the material witnesses including the complainant, son-in-law of the complainant in whose house, the deceased was found dead as well as the witness of extra judicial confession Gurjant Singh has been examined, further incarceration of the petitioner would serve no useful purpose as the remaining witnesses, as already submitted earlier, are continuously absenting themselves before the trial Court to get the evidence recorded.

3. Per contra, learned State counsel, on instructions from ASI Vikram Singh, has not been able to dispute the stage of trial nor has it been disputed that the three most material witnesses i.e complainant, son-in-law of the complainant



and the witness of extra judicial confession Gurjant Singh stand examined. It has also not been disputed that the present case hinges on circumstantial evidence and the motive to commit the crime was given out by Gurjant Singh-witness of extra judicial confession, however, the complainant, who is none other than father of the deceased had categorically stated that there was no money dispute between the petitioner and deceased, which is at variance with the testimony of witness of extra judicial confession.

4. Learned State counsel, on instructions, has submitted that the petitioner is a man of criminal antecedents as he has also been booked for some offences under the IPC including one registered under Section 302 IPC.

5. On a pointed query put to learned counsel for the petitioner as to whether he is on bail in those other pending cases, learned counsel, on instructions has replied in negative by submitting on instructions that he is in custody in all other cases.

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

7. Taking into account the facts and circumstances as enumerated hereinabove and moreso when the petitioner has now been in custody for almost five years having been arrested on 29.12.2019 and the remaining prosecution witnesses have not been stepping into the witness box to depose, coupled with the fact that all the material witnesses in the present case already stand examined, further incarceration of the petitioner in the present case would serve no useful purpose as it is unlikely that the trial would conclude in the near future. Accordingly, the instant petition is allowed. The petitioner be admitted to bail to the satisfaction of the trial Court/Duty Magistrate concerned.



8. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.
9. Needless to add, in case the petitioner misuses the concession of bail granted to him, the State would be at liberty to seek cancellation of the same.

September 06, 2024
manoj

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No