

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

224

CRM-M-47748-2023
Date of decision: 19.03.2024

Dalwinder Singh @ Davinder Singh

....Petitioner

V/s

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. B.B.S. Randhawa, Advocate,
for the petitioner.

Mr. Anup Singh, AAG, Punjab.

SUMEET GOEL, J. (ORAL)

1. Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.26 dated 22.04.2023, registered for the offences punishable under Sections 306 & 34 of IPC at Police Station Ghanie Ke Banger, District Batala.

2. The case set up in the FIR in question is as follows:-

“Statement of Gurdeep Singh son of Balwinder Singh resident of Sallochahal, Police Station Rangar Nangal, M. No. 88470-64472, aged about 22 years, stated that I am resident of above mentioned address. I am working as diesel mechanic at Adda Achal. Today at about 3:00 PM, I was working on my shop. I received a phone call on my mobile Phone No. 88470-64472 from Mobile Phone No. 95920-68031 that I got a phone call on my mobile phone No. 88470-64472 from Mobile No. 95920-68301 that the wife of Ripmi wife of Dalwinder Singh resident of Shamsherpur is unwell, who is on drip, she was not well, she has died. When I reached alongwith my wife Pooja resident of

Sallochahal in Village Shamsherpur at the house of Dalwinder Singh son of Ninder Singh resident of Shamsherpur, I saw dead body of Rimpi wife of Dalwinder Singh lying on a wooden double bed inside the room. We saw that there was a mark of strangulation on his neck with something and a scar on his right knee. I am sure that she was strangled and killed by her husband Dalwinder Singh, father-in-law Nindar Singh and elder brother in law Tehni, mother-in-law Manjit Kaur, residents of Shamsherpur, because earlier also, this entire family used to send her to me after giving her beatings and took her back through the panchayats after compromise. To whom always tried to understand them not to do such things. I was coming to give information, you met, statement got recorded, heard, read over, which is correct. I am aggrieved, action be taken. Sd/- Gurdeep Singh above said, witnesseth by Sd/- Pooja wife of Gurdeep Singh resident of Sallo Chahal, attested by sd/- Amarjit, Station House Officer, Police Station Ghanie Ke Bangar, dated 22.04.2023.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 27.04.2023. Learned counsel has further argued that the complainant-Gurdeep Singh stands examined as PW-1 during the course of trial & his testimony would show that the incriminating material against the petitioner is to the extent “*We were assured that Rimpny was killed by hanging by her husband Dalwinder Singh, father-in-law Ninder Singh, brother-in-law Tehni and mother-in-law Manjit Kaur. Above said all persons used to harass Rimpny mentally as well as physically and compromise was affected several times. We persuaded above said persons not to do so but they never mend their ways. The parents of Rimpny already expired.*” Learned counsel for the petitioner has submitted that, even if the above-said testimony be taken as true, the

offence under Section 306 of IPC is not made out against the petitioner. Learned counsel, in order to buttress his argument, has relied upon the ratio decidendi of the judgment of the Hon'ble Supreme Court in the case of **Mohit Singhal & another vs. The State of Uttarakhand & others**, reported as 2023 INSC 1035, relevant whereof reads as under:-

“9. In the facts of the case, secondly and thirdly in Section 107, will have no application. Hence, the question is whether the appellants instigated the deceased to commit suicide. To attract the first clause, there must be instigation in some form on the part of the accused to cause the deceased to commit suicide. Hence, the accused must have mens rea to instigate the deceased to commit suicide. The act of instigation must be of such intensity that it is intended to push the deceased to such a position under which he or she has no choice but to commit suicide. Such instigation must be in close proximity to the act of committing suicide.”

Thus, regular bail is prayed for.

4. Learned counsel for the State has opposed the present petition by arguing that the allegations raised are serious in nature and, thus, the petitioner does not deserve the concession of regular bail.

5. I have heard counsel for the parties and have gone through the available records of the case.

6. The petitioner was arrested on 27.04.2023 whereinafter investigation was carried out & challan was presented on 26.06.2023. Total 15 prosecution witnesses have been cited and culmination of the trial will take its own time. The rival contention of the learned counsel for the parties as to whether the offence of Section 306 of IPC is made out, in the

facts and circumstances of the instant case, shall be gone into during the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, lest it may prejudice the trial. Nothing perceptible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the remaining prosecution evidence. As per the custody certificate dated 18.03.2024 filed by the learned State counsel, the petitioner has suffered incarceration of about 10 months and 24 days & is not shown to be involved in any other case. Suffice to say further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the present case.

7. In view of totality of factual matrix of the present case, the instant petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the learned concerned CJM/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned CJM/Duty Magistrate, the petitioner shall remain bound by the following conditions:-

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit his passport, if any, with the trial Court.

- (vi) The petitioner shall give his cellphone number to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number without prior permission of the trial Court/Illaqa Magistrate.
 - (vii) The petitioner shall not in any manner try to delay the trial.
8. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned CJM/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the petitioner.
9. Ordered accordingly.
10. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.
11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

March 19, 2024
poonam

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