

CRM-M-49704-2023

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

220

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Date of Decision:-29.01.2024

Surjit Singh @ Ganja
.....Petitioner

Versus

State of Punjab
.....Respondent

CORAM: HON’BLE MR. JUSTICE ALOK JAIN

Present: Mr. Tushar Sharma, Advocate for the petitioner.
Mr. P.S. Grewal, DAG, Punjab.

ALOK JAIN, J. (Oral)

1. The present petition is filed for grant of regular bail to the petitioner in case FIR No. 52 dated 24.07.2020 under section 302, 201, 120-B of the Indian Penal Code at Police Station Dhilwan, District Kapurthala (Annexure P-1) the present case brings out an alarming issue, therefore, the factual matrix is detailed hereinbelow:
2. The FIR No. 52 dated 24.07.2020 was lodged under section 302, 201, 120-B of the Indian Penal Code, when a dead body was recovered and subsequently after 10 days on the statement of the father of the deceased, one Gurdeep Singh @ Gurdip Singh @ Sunny was nominated. The accused Gurdeep Singh @ Gurdip Singh @ Sunny was arrested after more than one year on 30.07.2021 and he allegedly suffered a disclosure statement “That on 22.07.2020 he along with co-accused Shally, Rashpal Singh, Dharwinder Singh @ Dhindri, Sunny Lahoria and Channi with

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common intention took the deceased Deepak Heera from the liquor vend in drunkard condition and after committing his murder burnt his dead body by sprinkling petrol and after tying his legs and neck thrown his dead body in Beas Canal.” On the said disclosure statement DDR No. 20 dated 31.07.2021 was registered in which the above named accused were nominated.

3. Interestingly, one of the nominated co-accused Dharwinder Singh @ Dhindri who was already facing trial in an FIR No. 137 dated 25.11.2018 under Sections 307/326/323/148/149 of the Indian Penal Code and Section 25 of the Arms Act, registered at Police Station Kapurthala, was arrested in the said case and was subsequent brought on production warrants in this case. However, his date of arrest is not forth coming.

4. On 13.12.2021, disclosure statement of Dharwinder Singh @ Dhindri was recorded, in which he also took the names of all the co-accused as narrated by Gurdip Singh and additionally, the name of the present petitioner Surjit Singh @ Ganja also surfaced and subsequent thereto, another DDR bearing No. 13 dated 13.12.2021 was recorded and accordingly, the present petitioner was arrested.

5. There has been an inordinate delay in the investigation and therefore, a specific order was passed on 10.01.2024 and the status report was called and the concerned official was directed to be present in the Court.

6. Today, Mr. Bharat Bhushan (PPS), Deputy Superintendent of Police, Sub- Division Bholath, Kapurthala is present and has submitted that the concerned Investigating Officer has since retired. However, the matter is proceeding in accordance with law and 02 witnesses out of 40 witnesses

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lapses and delays in the investigation, least to mention that no statement of other co-accused nominated by Gurdip Singh was recorded, who could have at least substantiated as to whether Surjit Singh was with them or not. The Police Authorities are expected to investigate the matter thoroughly on the basis of cogent evidence and act in a responsible manner, however, it is apparent that the Investigating Officer was absolutely callous. The life and liberty of a citizen has been curtailed and the petitioner is in custody for the last more than two years, only on the basis of a disclosure statement that of a co-accused who has been nominated by main accused.

7. After considering the above, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned. He shall, however, be released on the following conditions:

- (i) The petitioner shall declare his ordinary place of residence and the mobile number used by him.
- (ii) The petitioner will not switch off his mobile and in case of any technical glitch, he has to give an alternate number, which will be available in his absence.
- (iii) The petitioner will mark his presence before the SHO concerned, after every 15 days and in case the SHO refuses to mark his presence, he is permitted to make an application before the Illaqa Magistrate, concerned.
- (iv) The petitioner will not leave the country without the prior permission of the Court, for which he will submit the copy of his passport also.

The petitioner shall abide by the terms and conditions as imposed in addition to Section 439 of Cr.P.C.

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8. It is made clear that, in case, the petitioner is found involved in any such activity again, the State is at liberty to promptly move an appropriate application for cancellation of bail detailing out the circumstances and violation of conditions of bail.

9. It is kept open that, in case, the petitioner is ultimately acquitted on the ground that there is no cogent evidence against the petitioner, it will be considered to pass appropriate orders against the delinquent officer even if he has retired.

10. However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the narration above is only for the purpose of deciding the present bail petition and it shall not prejudice the prosecution. The trial Court shall proceed in accordance with law.

29.01.2024
Parul

(ALOK JAIN)
JUDGE

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