



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

224

CRM-M-47627-2024

Date of decision: 27.09.2024

Ashwani Kumar alias Kali

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Rakesh Gupta, Advocate
for the petitioner.

Mr. Shiva Khurmi, AAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in case FIR No.62 dated 24.04.2023 under Sections 302 and 34 of the IPC, 1860 (Sections 148, 149 of the IPC added and Section 34 of the IPC deleted lateron) registered at Police Station Division 4, District Patiala (in the impugned order it is mentioned as Police Station Lahori Gate Patiala).

2. Learned counsel for the petitioner submits that as per the case of the prosecution itself the complainant and his family received a telephonic message informing them of the murders of Nakul (hereafter referred to as 'deceased') and his friend Anil Kumar. On receipt of information, when the complainant reached the place of occurrence, they found both the dead bodies lying on the road smeared with blood.

Learned counsel has argued that as per the FIR which has been annexed



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as Annexure P-1, neither was the petitioner named as an accused therein nor any suspicion raised qua his involvement in the crime in question, much less by way of a whisper. Furthermore, even after the police arrived at the scene of crime after the matter was reported to them, they were unable to uncover any leads regarding the twin murders, despite the presence of the CCTV camera in the vicinity.

3. Learned counsel for the petitioner has further argued that curiously enough two days later, the complainant made a supplementary statement, claiming that he had learnt from his own sources that the petitioner along with five others was responsible for the twin murders. It has been emphasized by the learned counsel that there was no eye witness to the crime in question, no extra judicial confessions were made by any of the accused and even no clear cut motive had been attributed to the petitioner or any other co-accused to commit the murder in question. Rather, it was vaguely mentioned in the supplementary statement annexed as Annexure P-3 that there had been prior altercation between the deceased and the accused party. Learned counsel submits that given the aforementioned circumstances, it is evidently a case of false implication and a serious question mark is indeed raised qua the version put forth by the prosecution.

4. Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner, on instructions from ASI Satvir Singh, does not dispute that the case at hand rests on circumstantial evidence and that apart from the supplementary statement made by the complainant, no other incriminating evidence



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has been collected by the investigating agency to connect the petitioner with the twin murders. However, it has been submitted by the learned State counsel that following the supplementary statement, the petitioner was arrested on 01.05.2023 wherein not only did he confess to his involvement in the crime in question but during the disclosure statement suffered by the co-accused it came to light that it was the petitioner who along with co-accused Jatin had held deceased Anil Kumar by his arms and thereafter fatal injuries were inflicted upon him by the other accused.

5. On a pointed query put to the learned State counsel as to whether any recovery of any weapon of offence was effected from the petitioner, he, on instructions has replied in the negative. On a further query, it has also not been disputed by the learned State counsel that charges have been framed and the case is now stand adjourned to 16.10.2024 when some of the prosecution witnesses out of the 21 cited, are due to be examined.

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

7. Before proceeding further, it would be relevant to reproduce the contents of the FIR, which are as under:-

“Registered at this time that one statement of Sachin son of Satish Kumar resident of tenant in House No. 178, Gali No. 06, Old Bishan Nagar, Police Station Lahori Gate, Patiala, District Patiala aged about 20 years, Mob. No. 99146-24538, 62395-10224 recorded by SI/SHO Ramanpreet Singh 42/LRT Police Station Lahori Gate, Patiala was received at Police Station through CT Gurpreet Singh 3438 for registration of case FIR under sections 302, 34 IPC against unknown person/persons, the contents of which are as under:- "Statement of Sachin son



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of Satish Kumar resident of tenant in House No. 178, Gali No. 06, Old Bishan Nagar, Police Station Lahori Gate, Patiala, District Patiala aged about 20 years, Mob. No.99146-24538, 62395-10224. Stated that I am a resident of above said address and do household work. We are four sisters and brothers. My eldest brother is Aman, younger to him is my sister Naina and I am younger to her and youngest brother is Nakul. My brother Nakul aged about 17/18 years, used to live at home only. Yesterday i.e on 23.04.2023, I, my brother Nakul and his friend Anil Kumar @ Chottu son of Durga Prashad resident of House No. 34, Shaheed Bhagat Singh Colony, Patiala aged about 21 years, were sitting at my home and eating and drinking and at about 12.00 night, my brother Nakul had gone with his friend Anil Kumar on his motor cycle towards Railway Station Patiala for taking cigarettes etc.. Then at about 05.05 A.M, I received phone call from house of friend of my brother that Anil Kumar and Nakul had a quarrel near Corner Hotel Patiala and they are lying their smeared with blood. Then I after taking along my father Satish Kumar reached Corner Hotel, Opposite Bus Stand Patiala, where a lot of people had gathered at the spot and the people told me that two boys have died at this spot during quarrel and their dead bodies have been taken to Rajindra Hospital Patiala. I along with my father reached Rajindra Hospital, Patiala and identified the dead bodies of my brother Nakul and his friend Anil Kumar lying in mortuary. Then I along with my father was coming to Police Station Lahori Gate Patiala for lodging the report regarding taking action against the unknown person/persons killing my brother Nakul and his friend Anil Kumar that you along with police party met near Traffic lights roundabout near Bus Stand Patiala. I have got recorded my statement with you in presence of my father Satish Kumar. I have read and heard it, which is correct. Appropriate legal action be initiated against unknown person/persons. Sd/- Sachin aforesaid. Corroborated by:- Sd/- Satish Kumar aforesaid. Attested: Sd/ Station House Officer, Police Station Lahori Gate Patiala. Date: 24.04.2023.”

8. In the facts and circumstances as enumerated hereinabove coupled with the fact that investigation is complete and charges also stand framed, this Court deems it fit to extend the concession of bail to the petitioner.

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9. Accordingly, the instant petition is allowed. The petitioner be admitted to bail on his furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned. 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.

10. 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.

27.09.2024

(MANJARI NEHRU KAUL)
JUDGE

Vinay

Whether speaking/reasoned

Whether reportable

:

Yes/No

:

Yes/No