



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-48347-2024

Date of decision: 22.10.2024

Talwinder Singh @ Kala

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Kanisth Ganeriwala, Advocate
for the petitioner.

Mr. Yuvraj Shandilya, AAG, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner in the instant (second) petition is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.255 dated 30.08.2022 under Sections 147, 148, 149, 302, 307, 341, 427 of the IPC, 1860 and Section 25 of the Arms Act, 1959, registered at Police Station Kalanwali, District Sirsa.

2. Learned counsel for the petitioner submits that even though the petitioner was arrested on 13.02.2023 and challan presented on 10.05.2023 followed by framing of charges on 02.08.2023, however, the complainant despite being summoned repeatedly, had failed to appear before the learned Trial Court to testify in the instant case. It has been asserted by the learned counsel that in fact the complainant, who is also the wife of deceased Jagraj Singh @ Gaji, has since been



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declared a proclaimed offender, which is one of the reasons why she has been absenting before the learned Trial Court and the petitioner cannot be made to languish in custody to await the appearance of the complainant for getting her evidence recorded. It has also been submitted that a number of co-accused of the petitioner have since been extended the concession of bail by this Court vide orders dated 11.09.2024, 25.09.2023, 06.11.2023 and 31.05.2024 Annexures P-4 to P-7 on account of repeated absence of the complainant before the learned Trial Court.

3. Per contra, learned State counsel while opposing the prayer and submissions made by learned counsel for the petitioner, on instructions, has reiterated the allegations levelled in the FIR and which stands reproduced hereinunder:-

“Statement of Gurvinder Kaur W/o Jagraj @ Gaji son of Atma Singh, Jat Sikh, resident of Hassu and aged 36 years, Mo. No.96887- 00090. Stated, that I am resident of aforesaid address and do the household work. I have two girls and one boy. That the eldest daughter is Savneet Kaur, younger to her is Loveleen Kaur and the youngest boy is Sahibdeep Singh. My husband Jagraj Singh @ Gaji came out bail from Faridkot Jail on 08.06.2022. Yesterday dated 29.08.2022, in evening around 06:30 PM, I was driving my Innova car numbered HR-26BS- 5007, Swift car numbered DL-3CCB-3544 was being driven by Sandeep son of Bhola Singh, resident of Sukhladi, district Bathinda and our tractor Fartrack numbered HR-25D-9544 was being driven by my husband Jagraj and my son Sahibdeep was sitting alongwith him on tractor. When we were going to our field, which falls on Aseer Road, when we reached bus stand in our village on Dessu Road, then Kalanwali Police including S.I. Bhoop Singh, Constable Satbir and three other employees, whose name I do not know, intercepted our tractor with their car and stopped it. Thereafter my husband turned his tractor towards Desu Road. When my husband reached near Dhani of Kulwant Singh son of Jagar Singh, then a Scorpio car numbered HR-26B-7171 was parked there, on seeing my husband's



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tractor they waylaid him. That car was being driven by Darshan Singh son of Joginder Singh, Jat Sikh, resident of Hassu. That on the passenger seat Hargobind Singh son of Bikar Singh, in the middle seat Hardeep Deepa son of Bikar Singh, Talwinder Singh @ Kala son of Darshan Singh. Lovepreet Singh son of Bagar Singh, Caste Majhabhi Sikh, Dharampreet Singh son of Bagar Singh, Caste Majhabhi Sikh, Kaka Singh son of Bogi Singh and on the last row seats Sukhbir @ Sukha son of Bakshish Singh, Majhabhi Sikh, Jacky Singh son of Pala Singh, Majhabhi Sikh, Vicky Singh son of Mukhtiar Singh, Majhabhi Sikh, all alighted from the car and Darshan Singh exhorted that he be killed today and should not be spared, right after which Hargobind Singh fired a shot on my husband Jagraj Singh, which hit him on left side of his neck. Apart from it Talwinder Singh @ Kala son of Darshan Singh and Hardeep Singh @ Deepa son of Bikar Singh, also fired from their respective pistols and apart from them, Darshan Singh, Lovepreet Singh, Dharampreet Singh, Kaka Singh, Sukhvir Singh Sukha, Jacky Singh and Vicky Singh, all aforementioned were holding club ('Lathi'), stick, kirpan and swords. When my husband Jagraj Singh was shot, then due to bullet injury, my husband lost the control over tractor and due to imbalance tractor after collided with Scorpio car and it over turned and fell in a pit adjoining the road. In that field, cumin was planted. To save me from all aforementioned people, police accompanied my Innova car on the alternate route and said all of them are carrying weapons and they would kill her. That at this moment, Hardeep Singh son of Bikar Singh came in front of my car and Talwinder Singh and Hargobind Singh approached from the rear, Hardeep Singh attacked with Kirpan, he was holding on the front glass of my Innova car and in the meantime, all aforementioned people and Gurjant @ Rudha, Ex-Sarpanch, Laliyana, District Bathinda, Punjab, who had previous enmity with my husband, Sikander Singh son of Bogi Singh, Majhabhi Sikh, Gora Singh son of Darshan Singh, holding swords and Harman Singh son of Harbhajan Singh holding pistol approached near my car on his motorcycle and Gurjant Singh had pistol, who asked Hargobind Singh that she should not be spared today. Upon which, Gurjant Singh placed the pistol that he had been holding, over my ear and said today we have finished your gangster husband. After which, I pleaded everyone with folded hands and requested that I have small children, please spare me, in the meanwhile, all aforementioned person with intention to kill me attacked my car, that i received an injury over head. In the meantime, crowd had gathered on the road and on seeing the crowd all aforementioned people ran



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with their respective weapons. The reason for attack, Darshan Singh's family had fired over my husband Jagraj Singh in the year 2013, in respect of which, case under Section 307 was registered and keeping a grudge about the same, yesterday my husband was killed and I was injured, had the police not been present at the spot, then I too would have been killed. People gathered around the road did not bother to rescue my husband and were mute spectators to the occurrence. Thereafter, police took me and my husband Jagraj Singh for treatment in their car to Government Hospital, Kalanwali, where doctor declared my husband Jagraj Singh as dead and after giving me first aid, referred me to Government Hospital, Sirsa. Thereafter on reaching Sirsa, after sometime I called Jagpal Singh son of Tejinder Singh, resident of M.C. Colony to the Government Hospital and accompanied him in his car alongwith my children to my village Hassu. Yesterday when you had come to my house in the night, due to being unwell, I left in car with my son-in-law (Sikander) and Jagpal Singh. That when you came Darshan Singh, Hargobind Singh, Hardeep Singh, Talwinder Singh, Lovepreet Singh, Dharampreet Singh, Kaka Singh, Sukhvir Singh, Jacky Singh, Vicky Singh, Gurjant Singh, Sikander Singh, Gora Singh and Harman Singh, all aforementioned people killed my husband and attacked me with intention to kill and have committed a serious offence. Strict action be taken against all aforementioned and justice be served to me. I have got recorded my statement in front of my family. I have read my statement, heard it and have understood it which is correct. Sd/- Gurvinder Kaur, Attested Om Parkash P.S. Kalanwali, Dated 30/08/2022.”

4. Learned State counsel has submitted that the petitioner has been specifically named in the FIR in question and there were specific allegations levelled against him that he too had participated in the occurrence in question by firing from a pistol. Learned State counsel has, however, not disputed that fatal injury which was on the neck of the deceased, has not been attributed to the petitioner but to co-accused Hargobind Singh. Learned State counsel on further instructions has also not disputed that the complainant herself is a woman of criminal



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antecedents and has since been declared a proclaimed offender. It has been further submitted that the next date fixed before the learned Trial Court is 20.12.2024 for recording of prosecution evidence. In addition, learned State counsel has placed on record the custody certificate of the petitioner and submitted that a perusal of the same reveals that the petitioner is involved in a number of other criminal cases also.

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

6. The instant case is based on ocular testimony of the complainant, however, it is a matter of record and has not been disputed by the learned State counsel on instructions that even though the complainant has been repeatedly summoned by the learned Trial Court to depose, however, she has till date not put in appearance for getting her evidence recorded and rather has been declared a proclaimed offender in some criminal case which stands registered against her. In the aforementioned facts and circumstances, it is unlikely that the trial would conclude anytime in the near future moreso when as many as 28 prosecution witnesses have been cited and none of them have been examined till date. This Court, therefore, deems it fit to extend the concession of bail to the petitioner.

7. 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.



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8. 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.

22.10.2024

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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