

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

110+227

CRM-M-55378-2023 (O&M)

Date of decision: 14.02.2024

Harvinder Singh @ Sattu

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. SPS Sidhu, Advocate
for the petitioner.

Mr. Amit Rana, Sr. DAG, Punjab.

Ms. Puja Chopra, Advocate
for the complainant.

MANJARI NEHRU KAUL, J.

CRM-2580-2024

For the reasons mentioned in the application, the same is allowed and copy of statement of complainant Paramjit Kaur-complainant dated 19.12.2023 is taken on record as Annexure P-5 subject to all just exceptions.

CRM-M-55378-2023

1. The petitioner is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.195 dated 10.09.2021 under Sections 302, 460, 459, 307, 34, 120B of the IPC and Sections 25 and 27 of the Arms Act, 1959 registered at Police Station Passiana, District Patiala.

2. Learned counsel for the petitioner submits that the petitioner is completely innocent and has been falsely implicated in the

instant case; the case at hand rests on eye witness account; neither was the petitioner named in the FIR by the complainant nor any role much less by way of a whisper attributed to him in the crime in question. Learned counsel submits that the petitioner was nominated as an accused in the present case on the basis of a disclosure statement allegedly suffered by a co-accused on 11.05.2022 i.e. after 08 months of the alleged occurrence which took place inside the house of the complainant. It has been asserted that it was thus evident that the petitioner was being substituted as an accused only to save the actual accused.

2A. It has been further submitted that initially the investigating agency while presenting the first challan had stated that it was pursuing the arrest of Avtar Singh and Rajwinder Singh since they were the accused in the case, however, shockingly, the investigating agency thereafter took a U-turn and implicated the petitioner instead of Avtar Singh and Rajwinder Singh even though the complainant had specifically named Avtar Singh and Rajwinder Singh as being the actual assassins of her sister.

2B. Learned counsel has further submitted that the alleged disclosure statement on the basis of which the petitioner was later nominated as an accused, had been recorded in some other case i.e. case FIR No.303 dated 10.09.2021; such disclosure statement admittedly had very weak evidentiary value. It has still further been submitted that the complainant, who is a stamped witness, while stepping into the witness box during trial had not levelled any allegations whatsoever against the petitioner and had stood by the initial version given in the

FIR which further lent credence to the petitioner being completely innocent.

2C. Learned counsel has thus submitted that since the petitioner has been in custody for more than one and a half years having been arrested on 27.05.2022 and only one prosecution witnesses out of the 28 stands examined, who is none other than the sole material witness i.e. the complainant, his further incarceration would serve no useful purpose as the trial would still take considerable time to conclude.

3. Learned counsel appearing for the complainant at the outset has also not disputed the submissions made by learned counsel for the petitioner and has submitted that she would have no objection if the petitioner is extended the concession of bail. Learned counsel has yet again asserted that the petitioner had no concern with the murder of her sister and the police had intentionally tried to rope in the petitioner by substituting the real accused. She has submitted that the deceased who was her real sister; the deceased along with her minor daughter and the complainant were living together in their ancestral house. The complainant and the deceased had been left some property by their deceased father. The brothers of the complainant co-accused Tarsem Singh and Dalwinder Singh were unhappy with their father leaving behind some property to her and her deceased sister, and since it did not go down well with them, there was a long standing history of litigation between her brothers and the complainant party as her brothers were hell bent on usurping their property. Prior to the occurrence in question another incident had also taken place when the complainant and her

deceased sister were tried to be run over by her brothers accused Tarsem Singh and Dalwinder Singh with their car, as a result of which they had sustained injuries and also complained to the police, however, the police instead of registering any FIR against her accused brothers kept sitting over the matter; it is only after the deceased was murdered on the night of 09.09.2021 by the accused, the police strangely jumped into action and registered an FIR with respect to the earlier occurrence. Learned counsel for the complainant has reiterated that just to substitute the actual accused i.e. Avtar Singh and Rajwinder Singh, who had been specifically named by the complainant in the FIR in question, the police had implicated the petitioner. She has asserted that the investigation in the instant case had been totally mishandled by the investigating agency, and feeling aggrieved the complainant had also approached this Court vide CRM-M-45185-2021 which led to the formation of an SIT, on the directions of this Court.

4. Learned State counsel, on instructions, has not disputed that the complainant while stepping into the witness box had not levelled any allegations against the petitioner. He has also not disputed that it is a case based on eye witness account and the complainant, who had allegedly witnessed the murder in question, while lodging the FIR in question had neither named the petitioner nor raised any suspicion qua his involvement in the murder of his sister. He has, however, on instructions submitted that the role of the petitioner was of a conspirator to the crime in question.

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

6. In the light of the submissions made by learned counsel coupled with the fact that the complainant, who is the most material witness and also an eye witness to the murder of her sister, stands examined, no useful purpose would be served by keeping the petitioner behind bars. As per instructions received by the learned State counsel the petitioner has clean antecedents and is not involved in any other criminal case. In the facts and circumstances as enumerated hereinabove, this Court 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.

14.02.2024

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(MANJARI NEHRU KAUL)
JUDGE

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