

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

229

2024:PHHC:024503

CRM-M-57268-2023

Date of decision: February 21, 2024

GURCHARAN SINGH @ GOG

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. A.S. Sekhon, Advocate
for the petitioner.

Mr. Amit Rana, Senior Deputy Advocate General, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

1. The instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case FIR No.38 dated 10.05.2022 (Annexure P-1) under Sections 302 and 120-B of the Indian Penal Code, 1860 and (Section 3(2)(v) of SC and ST (Prevention of Atrocities) Act, 1989 added later on vide DDR No.26 dated 07.07.2022), registered at Police Station Lakhewali, District Sri Muktsar Sahib.

2. Before proceeding further, it would be apposite to reproduce the relevant portion of the FIR in question, which has been annexed as Annexure P-1, hereinafter: -

“Stated that I am resident of above said address and doing labour work. I have two children, elder is son Arashdeep Singh alias Arasha and younger is daughter Amandeep Kaur. My son Arshdeep Singh was residing with our co villager Peenu Kaur daughter of Rachhwinder Singh for the last 02 years and whenever we used to ask him to return home, he used to reply that he has solemnized marriage with Peenu Kaur and will reside with her and we also came to know that now Arashdeep Singh and Peenu Kaur

were residing in some city in Rajasthan and was not on visiting terms with us. On 08.05.2022 Arshdeep Singh and Peenu Kaur above said had come from Rajasthan to village Bhangchhari. On 09.05.2022 at 12.00 noon our co villager Swaranjeet Singh son of Karnail Singh told me that your son Arshdeep Singh has gone to the house of our co villager Gurcharan Singh alias Goga son of Mandar Singh, where Gurcharan Singh alias Goga son of Mandar Singh, Harjeet Kaur wife of Mandar Singh, Mandeep Singh son of Sukhdeep Singh alias Kala, Peenu Kaur daughter of Rachhwinder Singh and Pindi Singh son of unknown Residents of Bhangchhari were present and they gave some poisonous substance to your son Arshdeep Singh at the house of Gurcharan Singh alias Goga son of Mandar Singh due to which his health deteriorated and there was froth coming out of his mouth and Peenu Kaur has taken your son Arshdeep Singh to her house with the help of other persons and I was told about this by our co villagers Ravi Singh and Swaranjeet Singh above said. Then I arranged for a vehicle and got admitted my son Arashdeep Singh in Sandhu Hospital, Sri Muktsar Sahib where he died during treatment. The motive behind the occurrence is that Peenu Kaur is daughter of uncle of Mandeep Singh, due to which he was nursing grudge against my son and they have committed murder of my son after conspiring with each other by administering him some poisonous substance, due to which my son Arashdeep Singh had died. Legal action may please be taken against above said Gurcharan Singh alias Goga, Harjeet Kaur, Mandeep Singh, Peenu Kaur and Pindi Singh. Sd/- Sukhjinder Singh in the presence of Sukhdev Singh son of Surjeet Singh Resident of Bhangchhari.”

3. Learned counsel for the petitioner *inter alia* contends that the FIR in question came to be registered on the statement of the father of the deceased.

Learned counsel has further submitted that the case in hand rests on circumstantial evidence and there is no motive forthcoming as to why the

petitioner would have conspired with all the other accused to commit the murder of Arshdeep Singh. He has further submitted that the petitioner has now been in custody since 30.05.2022 and after the challan was presented, charges were also framed more than a year back on 23.01.2023, however, till date, none of the 30 prosecution witnesses had been examined. Learned counsel, while further drawing the attention of this Court to Annexure P-3, which is the report of Sandhu Hospital, where the deceased was taken by the complainant soon after the alleged occurrence in question, has submitted that while getting the deceased admitted in the hospital, the complainant had given an altogether contrary version that it was on account of overdose of drugs, his son had fallen unconscious. It has been submitted that the initial version given by the complainant to the doctor on 09.05.2022 was the actual cause of death of the deceased, which also finds due corroboration from the report of the Chemical Examiner as the presence of Morphine was detected in the Viscera, which was sent to it. Learned counsel has also brought to the notice of this Court that identically placed co-accused Peenu Kaur, with whom the petitioner was allegedly in a live-in relationship and Harjeet Kaur had since been extended the concession of bail by a Coordinate Bench of this Court vide order dated 21.09.2023 (Annexure P-6).

4. *Per contra*, learned State counsel, while opposing the prayer made by the learned counsel for the petitioner, on instructions, has not disputed that the case of the petitioner is at par with that of the co-accused, who had since been extended the concession of bail. Learned State counsel has filed the

custody certificate of the petitioner in the Court today, which is taken on record subject to just exceptions.

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

6. The petitioner has been in custody for almost 1 year and 9 months having been arrested on 30.05.2022. The investigation in the case at hand is complete as the challan stands presented. However, there is no possibility of the trial concluding in the near future as prosecution evidence is yet to commence; as per the learned State counsel, next date fixed before the learned trial Court is 22.02.2024, when some prosecution witnesses are likely to be examined.

7. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner. Accordingly, the instant petition is allowed; the petitioner be admitted to bail to the satisfaction of the trial Court/Duty Magistrate concerned.

8. 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.

February 21, 2024

Jaspreet Kaur

(MANJARI NEHRU KAUL)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No