

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Reserved on : February 21, 2024
Pronounced on : February 23, 2024

CRM-M-58780-2023

Kulwant Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Argued By -Mr. A.S. Sekhon, Advocate for the petitioner.

Mr. Sahil R. Bakshi, AAG, Punjab.

DEEPAK GUPTA, J.

By way of this petition filed under Section 439 Cr.P.C., petitioner prays for his release on regular bail in case FIR No.55 dated 11.04.2023 under Section 302 IPC, registered at Police Station Sadar Faridkot, District Faridkot.

2. As per prosecution allegations, on 07.04.2023, Lakhvir Singh (deceased) was present at this house along with his cousin Nirmal Singh, when Kulwant Singh (petitioner), resident of village Nawa Tehna came there and started arguing with them. They scuffled with each other, during which petitioner caught hold of Lakhvir Singh by neck, struck his head against the wall and strangled him, due to which Lakhvir Singh became unconscious. On the next day, i.e. on 08.04.2024, Lakhvir Singh in unconscious condition was taken to Guru Gobind Singh Medial

College, Faridkot, from where he was referred to PGI, Chandigarh. Ultimately, Lakhvir Singh succumbed to the injuries on 10.04.2023. On the statement made by Jagtar Singh, brother of deceased Lakhvir Singh to the police on 11.04.2023, present FIR was registered.

3. Autopsy was conducted at GGS Medical College, Faridkot. The cause of death was kept pending till the receipt of chemical analysis and histopathological examination report. Petitioner was arrested on 11.04.2023 and on interrogation, he suffered disclosure statement leading to the recovery of a *parna* worn by the deceased at the time of scuffle, which was used by the petitioner to strangle the victim. Statements of witnesses were recorded. The final opinion regarding cause of death was obtained after receipt of histopathological examination and chemical analysis report. As per the Board of Doctors, the cause of death was cerebral damage due to intracerebral hemorrhage, which was sufficient to cause death in ordinary course of nature. After completion of investigation, final report was submitted in the competent Court.

4. It is contended by learned counsel for the petitioner that the petitioner has been falsely implicated by lodging the FIR after 04 days of delay from the date of occurrence. In fact, deceased Lakhvir Singh was a drunkard, who used to live alone; that report under Section 173 Cr.P.C. shows no implication of the petitioner for the offence of culpable homicide amounting to murder; that postmortem report does not support the prosecution version, as there was no strangulation ligature mark on

the neck. Learned counsel has also drawn attention towards the testimony of PWs Jagtar Singh - complainant of the case as Annexure P-5, Nirmal Singh, the alleged eye witness as Annexure P-7 and that of Dr. Alwin Varghese as Annexure P-6, so as to contend that no case under Section 302 IPC is made out. Learned counsel further submits that petitioner is in custody for the last more than 10 months; that there is long list of prosecution witnesses; that material witnesses have already been examined; that petitioner is not involved in any other case; that the trial may take long time to conclude and so, in all these circumstances, he be allowed bail.

5. Learned State counsel has opposed the bail petition by submitting that petitioner is attributed to have strangled the deceased by pressing his neck and banging his head against the wall and so. the petitioner does not deserve to be given the benefit of bail, having regard to the gravity of the offence.

6. I have considered submissions of both the sides and have also apprised the record carefully.

7. As per FIR version, petitioner had caught the deceased by neck, struck his head against the wall and strangled him. The statement during trial (Annexure P-5) of complainant Jagtar Singh, the brother of deceased Lakhvir Singh would reveal that he is not an eye witness, as conceded by him and that he lodged the FIR on the basis of the information given to him by Nirmal Singh. The Statement (Annexure

P-7) of Nirmal Singh made during trial would reveal that as per him, during altercation, which took place on 07.04.2023 at about 9 p.m., petitioner caught hold of Lakhvir Singh, struck his head against the wall and throttled his neck making him unconscious.

8. However, the statement of PW2 Dr. Alwin Varghese (Annexure P-6) made during trial is very relevant. This witness was one of the members of the Board, who conducted the postmortem examination. As per him, after going through the histopathological examination report and that of the chemical analysis report, the Board had opined the cause of death to be cerebral damage due to intracerebral hemorrhage, which is sufficient to cause death in the ordinary course of nature. To the specific query put by the Court, Dr. Alwin Varghese explained that the intracerebral hemorrhage was caused most probably due to hypertensive bleed, the reason for which was ganglicapsular region. He also stated that the cause of hypertensive bleed could be hypertension. Dr. Varghese specifically stated that there was no external injury either on the head or on the scalp and that considering the findings on postmortem examination and the finding on NCCT head, the cause of death was most likely natural and not due to any injury. To another specific query put by the Court, Dr. Varghese disclosed that there was no injury or mark over the head or the neck, so as to suggest that neck of the deceased was held or his head was banged against the wall, though presence of multiple abrasions, reddish in colour crescentic in shape,

which are usually caused due to pressing of nails into the body, were found. It was clearly stated by this witness that there was no injury mark on the neck to suggest strangulation. He also explained that in the long standing history of alcohol abuse, hypertension can result. He also disclosed history given to PGI, Chandigarh was that it was a case of fall and that is why, probably it was recorded a non medico legal case.

9. Having regard to the aforesaid facts and circumstances, particularly the testimony of PW-2 Dr. Alwain Varghese, it will be a moot point as to whether the case under Section 302 IPC is made out against the petitioner or not, but *prima facie*, statement of Dr. Alwin Varghese, nullifies the prosecution version. The petitioner is in custody for the last 10 months and 12 days, as per the custody certificate. He has no criminal antecedent. The trial may take long time to conclude.

10. Having regard to all the aforesaid facts and circumstances, but without commenting anything on the merits of the case, petitioner is admitted to bail. He is ordered to be released on regular bail on his furnishing bail bonds and surety bonds to the satisfaction of learned Trial Court/Duty Magistrate concerned, on usual terms and conditions.

Allowed.

February 23 , 2024

Sarita

(DEEPAK GUPTA)

JUDGE

Whether reasoned/speaking: Yes/No

Whether reportable: Yes/No