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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-60096-2023 (O & M)
Date of decision: 20.02.2024

Harpal Singh Petitioner
V/s
State of Punjab ...Respondent

CORAM: HON’BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Ashish Aggarwal, Advocate
for the petitioner.

Mr. Deepinder Singh Brar, Sr. DAG, Punjab.

Mr. Sandeep Majithia, Advocate,
with Mr. Shivdeep, Advocate, for the complainant.

JASJIT SINGH BEDI, J. (Oral)

The prayer in this third petition under Section 439 Cr.P.C. is for the grant of the regular bail to the petitioner in FIR No.28 dated 14.05.2018 under Sections 302, 364, 201, 148, 149 and 120-B IPC registered at Police Station Khem Karan, District Tarn Taran.

2. The present FIR came to be registered on the basis of statement of Parvinder Singh, who stated that he was an agriculturist. He had two sons, namely, Arshdeep Singh, who was married and Hassanpreet Singh , who was a bachelor. On 13.05.2018 at about 4.00 p.m., his son Hassanpreet Singh had gone to the Haveli to feed the animals but did not return back.

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When he did not return till evening, they (complainant party) made an enquiry from his friends. On 14.05.2018, he saw Jaswant Singh @ Jassa Singh (since granted bail vide order dated 23.01.2024 passed in CRM-M-2538-2024) son of Kabal Singh, his brothers, namely, Sher Singh (since granted bail vide order dated 05.09.2023 passed in CRM-M-36804-2022) and Harpal Singh (petitioner) carrying something wrapped in a white carpet entering the house of Bohar Singh and Harpal Singh. Manjit Kaur wife of Jaswant Singh @ Jassa Singh and Manpreet Kaur wife of Harpal Singh followed them. Daya Singh who was a relative told him (complainant) that a day prior to the occurrence, he had seen Jaswant Singh @ Jassa Singh and Sher Singh catching hold of Hassanpreet Singh and taking him to the house of Jassa Singh. The parents of Ramandeep Kaur (daughter of Jaswant Singh @ Jassa Singh), had doubts that she was having an affair with his (complainant's) son Hassanpreet Singh. Jassa Singh and Sher Singh were living together in one house whereas Harpal Singh and Bohar Singh were living in separate houses. Ghulla son of Bohar Singh, Rana son of Sher Singh and Akash son of Jaswant Singh @ Jassa Singh might have killed Ramandeep Kaur and Hassanpreet Singh on account of their relationship and had hidden their bodies. Legal action was sought.

Pursuant to the registration of the FIR, the investigating agency recovered the dead body of Ramandeep Kaur from the house of Harpal Singh wrapped in a white sack and the same was taken into possession. The post-mortem report revealed multiple injuries on her person.

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Jaswant Singh @ Jassa Singh was arrested on 14.05.2018 and suffered his disclosure statement that he alongwith his co-accused had abducted Hassanpreet Singh and had murdered him after which they had disposed of his body in the manhole of his house. On the basis of the said disclosure statement, the dead body of deceased-Hassanpreet Singh was recovered from the said manhole.

The post-mortem examination of Hassanpreet Singh took placed which revealed multiple injuries on his person.

Sher Singh was arrested on 12.06.2018.

After the investigation, besides Jassa Singh @ Jaswant Singh, 09 persons, namely, Sher Singh, Harpal Singh, Rashpal Singh son of Kabal Singh, Manjit Kaur wife of Jaswant Singh, Manpreet Kaur wife Harpal Singh, Rajesh Kumar alias Raju Bhaiya, Manjinder Singh alias Ghulla son of Bohar Singh, Akashdeep Singh son of Jassa Singh, Ranjit Singh alias Rana son of Sher Singh were nominated as accused.

3. The learned counsel for the petitioner contends that the case is based on circumstantial evidence. Though, the petitioner was stated to be one of the main accused, however, as he was in custody since 14.05.2018 and only 08 out of the 28 prosecution witnesses had been examined so far, he was entitled to the concession of bail as the Trial was not nearing completion and two co-accused, namely, Sher Singh and Jassa Singh @ Jaswant Singh had been granted the concession of bail vide separate orders dated 05.09.2023 (Annexure P-3) and 23.01.2024 .

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4. The learned counsel for the State alongwith the counsel for the complainant, on the other hand, contend that it is a case of a double murder and the gravity of the offence did not entitle the petitioner to the grant of bail. They, however, concedes that the petitioner was in custody since 14.05.2018, only 08 of the 28 prosecution witnesses had been examined so far and that two co-accused, namely, Sher Singh and Jassa Singh @ Jaswant Singh had been granted the concession of bail.

5. I have heard the learned counsel for the parties.

6. While it is true that two persons have been murdered in the present case, it is equally true that the petitioner is in custody since 14.05.2018 and only 08 out of the 28 prosecution witnesses have been examined so far. Article 21 of the Constitution of India provides for the right to a speedy trial which has been *prima facie* violated in the present case as is evident from some of the zimni orders of the Trial Court which would show that on account of no fault on the part of the accused, they have continued to be in custody for the last more than 05 years. As only 08 of the 28 prosecution witnesses have been examined so far, the trial of the present case is not likely to be concluded anytime soon. In this situation, the further incarceration of the petitioner is unwarranted, moreso, when his two co-accused, namely, Sher Singh and Jassa Singh @ Jaswant Singh has been granted the similar relief.

7. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, Harpal Singh is

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ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

8. The petitioner shall appear on the first Monday of every month before the police station concerned till the conclusion of the trial and furnish an affidavit each time that he is not involved in any case/crime other than the present one.

9. If any attempt whatsoever is made by the petitioner and/or his family members/friends to contact/threaten/intimidate any of the witnesses of the present occurrence, the State/complainant shall be at liberty to move an application for cancellation of bail granted vide this order.

10. In addition, the petitioner (someone else on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from Trial without sufficient cause.

February 20, 2024 (JASJIT SINGH BEDI)
sukhpreet JUDGE

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