

(219)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-61507-2023

Date of Decision: 09.04.2024

JASPAL KAUR @ RASHPAL KAUR

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. J.S. Dadwal, Advocate
for the petitioner.

Mr. Harkanwar Jeet Singh, Asstt. A.G., Punjab.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.0055 dated 10.07.2023 registered under Sections 302, 34 IPC, 1860 (Section 120-B IPC, 1860 added later on) at Police Station Sarai Amant Khan, District Tarn Taran.

2. The present FIR came to be registered at the instance of Gurmit Kaur wife of Hira Singh and the same reads as under:-

“Statement of Gurmit Kaur w/o of Hira Singh, resident of village Buraj, District Tarn Taran, age about 45 years, Mobile No: 84278-94184. Stated that I am resident of abovesaid address and I household lady. I have four am children named Princepal Singh @ Prince; Vijaypal Singh, Ajaypal Singh; Arshdeep Singh. That my son Princepal Singh aged about 23 years was habitual to consume drugs and about 08 days ago, allegation was leveled against my son Princepal Singh that he has damaged newly purchased Thar Car of Mantej Singh son of Baljinder Singh resident of village Buraj and torn tires of Thar. Because of which

Mantej Singh son of Baljinder Singh; Gurbhej Singh son of Gurnam Singh; Chakaur Singh son fo Manjinder Singh @ Manna, residents of village Buraj in connivance with each other took away to my son Prince with them at tubwell, where they badly beaten to my son and they removed nail of my son's left foot with pliers and they by providing medicine and band from the clinic of Dr. Amrik Singh on dated 07.07.2023 [Friday] sent him at house. Upon reaching at house my son Prince told me this fact and on next day the abovesaid three persons again called to my son and took away to him with them after that my son did not return back and I am searching to him till date, today on dated 10.07.2023 time will be around 10:00 AM, my Jeth's son [son of brother in law] named Harpreet Singh @ Rinku son of Kulwant Singh told me that smelling was coming from old house of Sukhbir Singh son of Ajit Singh and we by reaching saw that dead body of my son Princepal Singh @ Prince is hanging with the gridder of roof and his both hands have been roped at back side. That I alongwith my Nanani (sister-in-law) Simranjeet Kaur wife of Ranjit Singh; resident of Sheed Udham Singh Nagar, Street No. 05, Amritsar by reaching here saw that hanging dead body of my son Princepal Singh and his both hands have been roped. That abovesaid persons Mantej Singh, Gurbhej Singh, Chamkaur Singh etc by giving beatings and torturing to my son has been killed to my son and by roping his hands at behind side, has been hanged his dead body with grider. Today I by accompanying to my Nanani/sister-in-law Simarjeet Kaur wife of Ranjit Singh, resident of Shaheed Udham Singh Nagar, Street No 5, Amritsar, was coming to Police Station to intimate this fact and you met. Legal action may be taken against abovesaid persons Mantej Singh, Gurbhej Singh, Chamkaur Singh and justice may be done with. After writing, facts of statement read over to her and she after accepting it to be correct impressed right thumb and

Simarjit Kaur marked her signatures on it in Punjabi and same attested by SI/SHO Salwant Singh.”

3. During investigation, Gurmit Kaur (complainant) got recorded her supplementary statement to the effect that three accused named in the FIR had beaten the deceased in the presence of the present petitioner who was the mother of Mantej Singh and she had stated that the deceased was to be taught a lesson for damaging the Thar vehicle.

Based on the supplementary statement, the petitioner came to be nominated as an accused vide DDR No.23 dated 17.07.2023.

During the course of investigation, the statement of one Sonu son of Shinder Singh was recorded to the effect that he had seen the accused committing the murder of Princepal Singh in the presence of the petitioner.

4. The learned counsel for the petitioner contends that the supplementary statement of the complainant was hearsay evidence as she had not witnessed the occurrence. Sonu a purported eye-witness who had allegedly seen the petitioner along with the other accused had been examined as PW5 and had not supported the prosecution case. As the petitioner was a lady, in custody since 17.07.2023 and only 01 of the 21 prosecution witnesses had been examined so far, the Trial of the present case was not likely to be concluded anytime soon and therefore, she was entitled to the concession of bail.

5. A short reply dated 11.03.2024 by way of an affidavit of Tarsem Masih, PPS, Deputy Superintendent of Police, Sub Division Tarn Taran, District Tarn Taran has been filed on behalf of the State by the learned counsel for the State. The same is taken on record. He contends that the petitioner was present at the spot when the deceased was being done to death.

Therefore, she was not entitled to the concession of bail. He, however concedes that the petitioner was a first-time offender, in custody since 17.07.2023, only 01 of the 21 of the prosecution witnesses had been examined so far and that PW5-Sonu had not supported the prosecution case.

6. I have heard the learned counsel for the parties.
7. The veracity of the prosecution case against the petitioner and her co-accused shall be adjudicated upon during the course of the Trial. Admittedly, the purported eye-witness Sonu has not supported the prosecution case. Whether the remaining evidence is sufficient to affix guilt upon the petitioner shall be adjudicated upon during the course of Trial. The petitioner is a first-time offender, in custody since 17.07.2023 but only 01 of the 21 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. In this situation, the further incarceration of the petitioner is not required.
8. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Jaspal Kaur @ Rashpal Kaur wife of Baljinder Singh is ordered to be released on bail subject to her furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.
9. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

09.04.2024

JITESH

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