

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.62792 of 2023
Date of decision: 23rd January, 2024

Bhinder Singh @ Bhinda

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Rehat Bir S. Mann, Advocate for the petitioner.

Mr. Mohit Kapoor, Addl. Advocate General, Punjab
for the respondent/State.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 439 Cr.P.C. in case FIR No.144 dated 27.08.2019 under Sections 302, 34, 460, 120-B of the IPC registered at Police Station Kotbhai, District Sri Muktsar Sahib.

2. While drawing the attention of this Court to the allegations leveled in the FIR, which has been annexed as Annexure P-1, learned counsel submits that the complainant Gurtej Singh (i.e. brother of the deceased) had alleged therein that in the wee hours of 27.08.2019, he heard the cries of his maternal grandmother from the neighbouring house; on reaching the house of his maternal grandmother, he saw two persons with muffled faces armed with Kappas jumping the wall and fleeing

away. Thereafter, he saw his brother (the deceased) lying dead with incised wounds on his neck and chin. Learned counsel has submitted that while lodging the FIR in question, the complainant had categorically stated that the deceased had been killed by some unidentified persons and there was not even any suspicion raised qua the involvement of the petitioner in the crime in question. Furthermore, it was not even stated by the complainant that in case the alleged assailants were brought before him, he could identify them. Learned counsel submits that strangely, when the complainant stepped into the witness box as PW-1, he was able to identify the petitioner in the Court. Learned counsel has further submitted that such identification of the petitioner in the Court has very weak evidentiary value and all this requires to be appreciated in the light of the contents of the FIR wherein no description of the assailants had been given. It has also been submitted that the petitioner was arrested on 29.08.2019 pursuant to an alleged extra-judicial confession made before the maternal uncle of the deceased qua his involvement in the murder in question, however, this material witness of extra-judicial confession i.e. Goga Singh, while stepping into the witness box, had not supported the case of the prosecution and was declared hostile, which without a doubt, created a huge dent in the case of the prosecution. It has been further submitted that all the material witnesses, including the complainant and the witness of extra-judicial confession, stand examined; however, 18 witnesses cited by the prosecution still remain to be examined, thus, there

is no likelihood of the trial concluding in the near future. A prayer has, therefore, been made for extending the concession of bail to the petitioner, as his further incarceration would serve no useful purpose.

3. Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions, has not been able to dispute the contents of the FIR, which was registered at the instance of Gurtej Singh, i.e. the brother of the deceased, and he has also not been able to dispute that the witness of extra-judicial confession, while stepping into the witness box, had not supported the case of the prosecution as a result of which he was declared hostile. Learned State counsel, on further instructions, has also not disputed that all the material witnesses in the case in hand stand examined. However, he submits that the petitioner and the wife of the deceased were in an illicit relationship, which was the motive for the petitioner to eliminate the deceased. He has further informed the Court that the next date of hearing fixed before the trial Court is 21.02.2024 when some more prosecution witnesses are likely to be examined.

4. I have heard learned counsel for the parties and perused the relevant material on record.

5. The petitioner has now been in custody for more than 4 years, having been arrested on 28.09.2019; there is no likelihood of the trial concluding in the near future as 18 prosecution witnesses still remain to be examined. In addition to this, all the material witnesses in the instant

case already stand examined. In the facts and circumstances, as enumerated hereinabove, this Court thus deems it fit to extend the concession of bail to the petitioner. The petition as such is allowed and the petitioner is admitted to bail to the satisfaction of the trial Court/Duty Magistrate. 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.

(MANJARI NEHRU KAUL)
JUDGE

January 23, 2024

rps

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