

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

2025:PHHC:176474



227

CRM-M-42783-2025 (O&M)
Date of decision:19.12.2025

Gurdev Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Ms. Manveen Kahlon, Advocate for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

...

Manisha Batra, J. (Oral).

1. The instant petition has been filed by the petitioner seeking grant of regular bail in case arising out of FIR No.158, dated 20.09.2010, registered under Sections 364, 34, 302, 201 IPC, at Police Station Patti, District Tarn Taran.

2. The aforementioned FIR was registered on the basis of statement recorded by the complainant – Dalbir Kaur alleging that she was married with the victim – Pargat Singh about 26 years back. Accused Lakhwinder Kaur @ Lakho, who was married to one Partap Singh had developed illicit relationship with her elder son Mandeep Singh. Her husband had objected to the same and on his asking, her son stopped maintaining that relationship. Thereafter, accused Lakhwinder Kaur started conversing with her husband and asked him to sell his plot. On 12.09.2010, her husband had gone to Chandigarh on his motorbike and did not return

back. They had made search for him and came to know from one Dilbag Singh that on the evening of 12.09.2010, he had a conversation with the victim, who had disclosed that he had been called by accused Lakhwinder Kaur for the purpose of sale of his plot. By raising suspicion that Lakhwinder Kaur had got her husband abducted, she prayed for taking action. Initially, a case under Sections 364 read with Section 34 IPC was registered. Investigation proceedings were initiated.

3. As per the further allegations, during the course of investigation, accused Joga Singh was joined into investigation and was interrogated. He suffered disclosure statement to the effect that he along with the present petitioner and co-accused Lakhwinder Kaur had committed the murder of victim Pargat Singh and had thrown his dead body in the canal. Statement of one Mohan Singh had also been recorded who was an eye witness of the last seen. Petitioner was nominated as an accused along with Joga Singh. He could not be apprehended. Proceedings under Section 82 Cr.P.C. were initiated against him and he was declared as a proclaimed offender on 01.03.2011. Co-accused Joga Singh and Lakhwinder Kaur had been arrested. Joga Singh expired during the course of the trial. Lakhwinder Kaur had faced trial. She was held guilty and convicted. The petitioner was arrested on 08.04.2020 and is in custody since then.

4. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case on the basis of disclosure statement of co-accused, which cannot be considered to be admissible in evidence. He had been residing abroad since the year 2006. Though, he was in India at the time of alleged occurrence but had nothing to do with the same. He is now in

custody for a period of over 05 years, 07 months and 29 days. Trial will take considerable time to conclude as only 03 out of 13 prosecution witnesses, have been examined so far. There is no eye witness to the murder of the victim. The case is based on circumstantial evidence and there is no circumstance to connect him with the subject crime. His further incarceration would not serve any useful purpose. He has clean antecedents. With these broad submissions, it is argued that the petitioner deserves to be extended the benefit of bail.

5. Per contra, learned State counsel while supporting the pleas as taken in the Status report has vehemently argued that there are serious and specific allegations against the petitioner, whose name was disclosed by the co-accused and who was very much present in India at the time when the victim had gone missing. Co-accused Lakhwinder Kaur has since been held guilty and convicted. There are chances of the petitioner's fleeing again, if extended benefit of bail. It is, therefore, stressed that the petition does not deserve to be allowed.

6. This Court has heard rival submissions made by learned counsel for the parties.

7. The petitioner in connivance with the co-accused is alleged to have committed the murder of the victim as on the night of 12.04.2010. He had been staying at Dubai after the occurrence and was arrested in this case only on 08.04.2020 when he came back to India. He is in custody for over a period of 05 years 07 months and 29 days. The trial is likely to take time to conclude as only 03 out of 13 witnesses have been examined so far. There is no direct witness to the murder of the victim. It is well settled proposition of

law that the speedy trial, early hearing and quick disposal of cases are sine qua non of criminal jurisprudence. It is also well settled proposition of law that prolonged incarceration generally militates against the most precious fundamental right guaranteed under Article 21 of the Constitution and in such cases, when there is delay in conclusion of trial without there being any fault on the part of the accused, he becomes entitled to be released on bail. The right to speedy trial begins with actual restraint imposed at the time of arrest of an accused and the consequence incarceration so that any possible prejudice that may result due to impermissible and avoidable delay since the time of commission of offence till conclusion of criminal proceedings can be averted. The guarantee of speedy trial is intended to avoid oppression and prevent delay by imposing upon the Court and the prosecution and obligation to proceed with the trial with a reasonable dispatch. The consequences of pre trial detention and systematic inefficiency frustrate the legislative purpose. The petitioner is in custody for over a period of 05 years 07 months and 29 days. Only 03 witnesses have been examined and it is apparent that the trial will not conclude in near future. The Hon'ble Supreme Court in **Sagar Ashok Satkar v. State of Maharashtra**, Law Finder Doc ID-2655558 and **Nilesh Vithoba Gadade Vs. State of Maharashtra**, Law Finder Doc ID-2788407 has recently extended benefit of bail in cases where the accused had been facing prolonged trial for commission of offence of murder. In the considered opinion of this Court, the prolonged incarceration without justifiable cause runs risk of transforming pre trial detention into punitive imprisonment

which is antithetical to the principles of justice and equity. The delay in culmination of the trial obviously cannot be attributed to the petitioner.

8. Taking into consideration the discussion as made above, the petition is allowed and the petitioner is ordered to be released on bail on his furnishing personal as well as surety bonds to the satisfaction of the learned trial Court with two sureties, and subject to the conditions that he shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case. He shall appear before the learned trial Court on each and every date of hearing except when his presence has been exempted by the trial Court. He shall surrender his passport, Aadhaar card and furnish details of permanent as well as temporary address, where he would be residing after release and shall not change the same without informing the concerned IO/SHO. The petitioner shall upon his release give his mobile phone number to concerned IO/SHO and shall keep his mobile phone switch on all times during trial.

13. It is clarified that the observations made above shall not be construed as an expression of opinion of this Court on the merits of the case and shall not influence the outcome of the trial in any manner.

19.12.2025

harjeet

Whether speaking/reasoned :
Whether reportable :

Yes/No
Yes/No

(MANISHA BATRA)
JUDGE