

Kundan Singh @ Mangal vs State Of Punjab on 18 January, 2025

Author: Manjari Nehru Kaul

Bench: Manjari Nehru Kaul

Neutral Citation No:=2025:PHHC:007210

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-57680-2024

Date of decision: 18.01.2025

KUNDAN SINGH @ MANGAL

....Petitioner

V/s

STATE OF PUNJAB

....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Jasraj Singh, Advocate, for the petitioner.

Mr. Navdeep Singh, DAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 483 of the Bhartiya Nagrik Suraksha Sanhita, 2023 in case FIR No.64 dated 13.04.2023 under Sections 302, 201, 34 of the IPC registered at Police Station Mahilpur, District Hoshiarpur.

2. Learned counsel for the petitioner contends that in a case resting on circumstantial evidence, the petitioner has now been in custody for 01 year and 08 months, having been arrested on 10.05.2023. It has been further submitted that an unknown body was found with severe limbs near the bushes in the village Bhatpur; a post-mortem was carried out upon the dead body and since no one came forward to claim the dead body, it was cremated after following the due procedure.

3. On 09.05.2023, on the basis of some photographs appearing in the newspapers, father of Amit Kumar (hereinafter referred to as the deceased) identified the deceased as his son and got recorded his statement 1 of 5 Neutral Citation No:=2025:PHHC:007210 accordingly, wherein he alleged that his son had been called on 10.04.2023 by one Bablu Sharma and thereafter he had not returned

home. It was further alleged in the statement that on enquiry made from Bablu Sharma, he feigned ignorance about the whereabouts of the deceased. On further enquiries, it came to light that Bablu Sharma along with his accomplices including the petitioner had murdered the deceased. Learned counsel has submitted that a totally fabricated narrative having been brought forth by the prosecution is evident from the fact that Bablu Sharma, who was named specifically by the father of the deceased while making his supplementary statement had been exonerated and instead the petitioner and co-accused- Harpal Singh had been challaned and put to trial for the alleged murder. It has also been asserted that the motive to commit the murder is also totally vague and implausible. Furthermore, as per the case of the prosecution, a confession was made by the petitioner admitting to his involvement in the alleged murder which is hit by Section 25 of the Evidence Act/23 of the Bharatiya Sakshya Adhiniyam. A prayer has, therefore, been made that in the wake of the above, the petitioner be extended the concession of bail as the trial has come to a virtual standstill after the charges were framed on 31.07.2024, with only two prosecution witnesses out of the 16 having been examined till date.

3. Per contra, learned State counsel while opposing the prayer and submissions made by learned counsel for the petitioner, on instructions from ASI Vasdev, has not disputed that it is a case of blind murder. However, learned State counsel has drawn the attention of this Court to the 2 of 5 Neutral Citation No:=2025:PHHC:007210 statement of the father of the deceased made on 09.05.2023, which is annexed as Annexure P-2 and which stands reproduced herein-under:-

"Statement of Joginder Singh, son of Mohinder Singh, resident of Dadula, Police Station Gangoh, District Saharanpur, State Uttar Pradesh, (U.P.), aged about 54 years, M. No. 97.597-90170, Cr.P.C., under Section 173 stated that I am resident of above- mentioned address and work as a lineman with a private contractor in the electricity department. I have two sons and a daughter. My daughter is married and two sons, who are both still unmarried. Out of them, one of my sons, namely, Amit Kumar, whose date of birth is 15-3-1994, was working as an agriculturist. On 10-4-2023, his surety Bablu Sharma, son of Vinod Sharma, resident of Beenpur, Police Station Gangoh, District Saharanpur, State Uttar Pradesh (U.P.) called my son Amit Kumar to him. After that my son Amit Kumar has not come back home till today. Regarding whom I made an enquiry from his friend Bablu Sharma. Who told me that he does not know anything about my son Amit Kumar. I personally enquired about the disappearance of my son Amit Kumar. About which I came to know that my son Amit Kumar was murdered by the said Bablu Sharma and his two accomplices Harpal Singh @ Pala, son of Mohinder Singh, resident of Gangoh, Near Teacher Colony, Shobhit University, Police Station Gangoh, District Saharanpur, State Uttar Pradesh (U.P.) and Kundan Singh @ Mangal, son of Balvir Singh, resident of Gurchhappar, Police Station Gangoh, District Saharanpur, State Uttar Pradesh (U.P.). I came to know that the dead body of a young man was found on 13-4-2023 in the forests of Village Bhatpur Jogian of Police Station Mahilpur, District Hoshiarpur (Punjab). About which I have come to Police Station Mahilpur to find out about this with my son Vineet Kumar. Where I came and saw, the photographs of the dead body and also saw the underwear worn on the body of the dead, body. These photos are of

my son. Amit Kumar and the underwear he is wearing also belongs to my 'son Amit Kumar. Regarding which I am now fully convinced that On 10-04-2023, Bablu Sharma abovesaid and his accomplices Harpal Singh @Pala, son of

3 of 5 Neutral Citation No:=2025:PHHC:007210 Mohinder Singh, resident of Gangoh, Near Teacher Colony, Shobhit University, Police Station Gangoh, District Saharanpur, State Uttar Pradesh (U.P.) and Kundan Singh @ Mangal, son of Balvir Singh, resident of Gurchhappar, Police Station Gangoh, District Saharanpur, State Uttar Pradesh (U.P.), in connivance with each other, called my son to him and killed him along and threw the dead body in the forest of Village Bhatpur Jogian. Appropriate legal action should be taken against the said persons. I have got recorded this statement to you in presence of my son Vineet Kumar. Statement hard, which is correct. Sd/- Hindi, Joginder Singh, verified by Sd/- Hindi, Vineet Kumar (son) attested by Sd/- Gurnek Singh, ASI, Station House Officer, Police Station Mahilpur, dated 09.05.2023."

Learned State counsel, on further instructions, has not disputed that the father of the deceased had suspected the involvement of Bablu Sharma at the very first instance, however, Bablu Sharma had not been challaned and instead exonerated. It has also not been disputed that the petitioner has been in custody since 10.05.2023 and as on date only two witnesses have been examined by the prosecution.

On a pointed query, learned State counsel has reiterated that the motive to commit the crime in question was an alleged suspicion that the deceased had been hired by one lady, namely, Maya to kill Harpal Singh in order to avenge the murder of her husband which had taken prior thereto.

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

5. The petitioner has been in custody since 10.05.2023 and the possibility of the trial concluding in the near future seems unlikely.

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6. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner.

7. Accordingly, the instant petition is allowed and the petitioner be admitted to bail on his furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned. 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.

8. Needless to add, in case the petitioner misuses the concession of bail granted to him, the State would be at liberty to seek cancellation of the same.

(MANJARI NEHRU KAUL)

JUDGE

January 18, 2025

poonam

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No

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