

2025:PHHC:042560



213.

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

**CRM-M-54996-2024**

Date of decision: 27.03.2025

Amarpal Singh @ Manga

.... Petitioner

Versus

State of Punjab

.... Respondent

**CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL**

Present: Mr. Judgepreet Singh Warring, Advocate, for the petitioner.

Mr. Amit Rana, Senior DAG, Punjab,  
with ASI Sukhwinder Singh.

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**MANJARI NEHRU KAUL, J. (ORAL)**

1. This is second petition that has been filed under Section 483 of BNSS, 2023, for grant of regular bail to the petitioner in case FIR No.166, dated 13.09.2022, under Sections 308, 323, 447, 511, 34 of IPC (lateron Section 302 of IPC added and Section 308 of IPC deleted), registered at Police Station Kot Bhai, District Sri Muktsar Sahib.

2. Learned counsel for the petitioner submits that the petitioner has been in custody since 09.10.2022 and has been falsely implicated in the murder of Ninder Pal Kaur (hereinafter referred to as the 'deceased'), who was the wife of his deceased brother, Dilbag Singh. It is contended that the present case is entirely based on circumstantial evidence, and even as per

the contents of the FIR (Annexure P-1), the alleged motive for the crime, if any, was not attributed to the petitioner, but rather to Manpreet Kaur (ex-wife of the husband of deceased) and her daughter, Harmanjot Kaur.

3. Learned counsel further contends that, according to the case of the prosecution itself, Manpreet Kaur and her daughter had an axe to grind against the deceased, as the husband of the deceased had transferred his agricultural land in her favour before his demise. However, despite this apparent animosity and suspicion also being raised qua their involvement in the murder of deceased, both, Manpreet Kaur and her daughter, had been exonerated by the Investigating Agency while falsely implicating the petitioner without any cogent evidence against him.

4. Another significant aspect highlighted by the learned counsel is the alleged dying declaration of the deceased. It is argued that the deceased, who had suffered severe head injuries, purportedly regain consciousness for only a few moments while being transported to the hospital and, during that brief period, named the petitioner as her assailant. Learned counsel submits that, given the critical condition of the deceased, it was highly improbable that she could have regained consciousness even momentarily to narrate the details of the alleged assailant. It is further contended that the deceased, immediately after making this alleged disclosure, slipped into a coma and never regained consciousness thereafter.

5. Learned counsel further argues that other than the purported statement of the deceased to the complainant (her brother), no incriminating

evidence had been collected against the petitioner to indicate his involvement in the alleged murder. Learned counsel further emphasized that there was absence of any direct or circumstantial evidence linking the petitioner to the crime, so much so there was no last seen evidence even placing the petitioner at the scene of occurrence.

6. Learned counsel for the petitioner has also contended that the sole material witness in the present case i.e. the complainant, has already been examined before the trial Court, and 32 other prosecution witnesses are yet to be examined. Therefore, further incarceration of the petitioner would serve no useful purpose, particularly when the evidence against him is weak and largely based on questionable dying declaration.

7. Additionally, it is submitted that assuming, for the sake of arguments and without conceding, that the deceased had actually named the petitioner before the complainant while being transported to the hospital, it is highly improbable that the complainant would have chosen not to disclose this crucial fact at the time of the admission of the deceased to the hospital. Learned counsel has pointed out that in the MLR of the deceased, there is no mention of the name of the petitioner as the alleged assailant, which casts doubt on the prosecution version.

8. *Per contra*, learned State counsel, while opposing the prayer and submissions made by the counsel opposite, has neither disputed the custody period of the petitioner, nor the stage of trial. However, learned

State counsel has reiterated the allegations levelled in the FIR in question, annexed as Annexure P-1, which stands reproduced hereinunder:-

“Statement of Jagsir Singh son of Gurmel Singh resident of Sarga Puri, Street No. 02, Sri Muktsar Sahib Road, Kotkapura, District Faridkot, Age about 58 Years, Mob. No. 81950-18037. I hereby state that I am resident of above mentioned address and am posted at Govt. Senior Secondary School Rori Kapura as Lecturer. First marriage of my sister Ninder Pal Kaur was solemnized with Jugraj Singh resident of Jaito and from this wedlock she had three children. Due to marital discord between both of them, my sister (Ninder Pal Kaur and her husband Jugraj Singh had annulled their marriage by way of decree of divorce and all three children are residing with Jugraj Singh. About 06 years ago we had solemnized second marriage of my sister Ninder Pal Kaur with Dilbag Singh son of Hari Singh resident of Village Maniawala. They do not have any child from this wedlock. It is pertinent to mention here that this was the second marriage of my brother-in-law (jija) Dilbag Singh. Dilbag Singh was earlier married with Manpreet Kaur @ Rani. Dilbag Singh had two children from his first marriage i.e. one son who has died few years ago and one daughter Harmanjot Kaur. Dilbag Singh's marriage with his first wife Manpreet Kaur has ended in divorce and Manpreet Kaur alongwith her daughter Harmanjot Kaur is residing at Bathinda. My brother-in-law (jija) had 34 Kanal 10 Marla land at Village Maniawala. Dilbag Singh was not keeping good health and at last he died on dt. 03.12.2021. Prior to his death Dilbag Singh had transferred his entire land in favour of my sister Ninder Pal Kaur through decree of court. After his death when Dilbag Singh's first wife Manpreet Kaur and her daughter Harmanjot Kaur came to know about this then they started harassing my sister Ninder Pal Kaur to get share in her land and my sister Ninder Pal Kaur's brother-in-law (jeth) **Amarpal Singh @ Manga** and his wife Jagsir Kaur were supporting both of them. Harmanjot Kaur had filed case against my sister Ninder Pal Kaur in the court of S.D.M. Sahib Gidderbaha to get share in her land and S.D.M. Sahib Gidderbaha had decided that case in favour of my sister Ninder Pal Kaur on dt. 30.08.2022. Even afterwards, Manpreet Kaur and her daughter Harmanjot Kaur were giving threats to kill my sister Ninder Pal Kaur to get share in land. My sister Ninder Pal Kaur had said to me that Manpreet Kaur and her daughter Harmanjot Kaur are harassing her and my sister Ninder Pal Kaur had said to me that they have taken

possession over my share of land. Then on dt. 06.09.2022 my maternal aunt's (maasi) son Avtar Singh resident of Kotbhai said to me on phone that your sister has suffered injuries and she is lying on the floor in house, you come here. I was going there and on the way Avtar Singh's son Amrik Singh said to me on phone that we are taking Ninder Pal Kaur to Jain Hospital Gidderbaha and you come there. I and Pardeep Kumar son of Sohan Lal resident of Muktsar Road, Kotkapura went to Jain Hospital and I saw that grievous injuries were inflicted in head of my sister Ninder Pal Kaur and blood was coming out of her ear. Then I was taking my sister Ninder Pal Kaur to Civil Hospital Gidderbaha and on the way my sister Ninder Pal Kaur regained consciousness and said to me that her brother-in-law (jeth) Amarpal Singh has inflicted injury in her head with iron rod, his wife was holding iron rod in her hand and some other persons were also with them who were also holding iron rods in their hands, all of them have inflicted injuries to me with their weapons. In the meantime we reached at Civil Hospital Gidderbaha and I admitted my sister in hospital for medical treatment, where, doctor sahib had referred her to: higher center for better medical treatment, but as grievous injuries were inflicted to my sister Ninder Pal Kaur in head I admitted her at private hospital Jha Neuro Surgeon Hospital, 100 Feet Road, Bathinda, where, she is under medical treatment and is in coma. Above mentioned Amarpal Singh etc. in connivance with each other have inflicted injuries to my sister to grab Dilbag Singh's land which he had transferred on the name of my sister Ninder Pal Kaur through decree of court before his death. Necessary legal action be taken against them and justice be given to me and my sister Ninder Pal Kaur. Complainant:- Sd/- Jagsir Singh.”

9. It has been submitted that the petitioner was named in the FIR at the very first instance and, there is, therefore, no question of false implication, as has been contended by the learned counsel for the petitioner. Learned State counsel has asserted that the complainant, while stepping into the witness-box, had reiterated the contents of the FIR and hence, there was no question of the petitioner being falsely implicated in the present case.

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

11. A careful perusal of the record reveals that the case of the prosecution hinges on circumstantial evidence and primarily on the alleged dying declaration of the deceased. However, several aspects of this purported dying declaration raise concerns about its reliability. It has not been disputed by the learned State counsel that in the MLR which was prepared at the time of admission of the deceased, although it had been alleged to be a case of assault, however, the complainant had failed to mention about the disclosure made to him by the deceased while she was being transported to the hospital qua the involvement of the petitioner. Furthermore, it is significant to note that when the deceased was admitted to the hospital, the complainant, as also not disputed by the learned State counsel, did not disclose to the attending doctors that the deceased had named the petitioner as her assailant.

12. Apart from the alleged dying declaration, there is no other direct or circumstantial evidence linking the petitioner to the crime. The prosecution has not led any other incriminating evidence against the petitioner, much less of any recovery of weapon of offence. The entire case, therefore, rests on a single piece of evidence, the alleged dying declaration made to the complainant; the complainant being sole material witness already stands examined. A significant number of prosecution witnesses remain to be examined. Given that the complainant has already

testified, further incarceration of the petitioner is unlikely to serve any significant purpose in the trial which is underway.

13. Furthermore, the petitioner has been in custody since 09.10.2022, and the trial is likely to take a considerable amount of time for conclusion.

14. In view of the totality of the circumstances, this Court deems it fit to extend the concession of bail to the petitioner.

15. 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.

16. 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**

**March 27, 2025**

sanjeev

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No