

(2002) 08 P&H CK 0048

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 33594 of 2002 in CrI.A. No. 1008-SB of 2002

Avinder Bir Singh

APPELLANT

Vs

State of Punjab etc.

RESPONDENT

Date of Decision : 29-08-2002

Acts Referred:

Citation : (2003) 1 AICLR 434 : (2002) 4 RCR(Criminal) 665

Hon'ble Judges : Ashutosh Mohunta, J

Advocate : Mr. T.P.S. Tung, Advocate.For the Respondent-C.B.I., Mr. Rajan Gupta, Standing Counsel.For the Complainant, Mr. Navkiran Singh, Advocate., Advocates for appearing Parties

Judgement

Ashutosh Mohunta, J.

1. The appellant was convicted under Sections 193, 194, 211 and 218 of the Indian Penal Code and was sentenced to undergo imprisonment as mentioned in the order of the sentence passed by the Sessions Judge, Rupnagar vide his order dated 2.5.2002. The maximum sentence awarded to the appellant was under Section 194 of the Indian Penal Code, wherein he was sentenced to undergo rigorous imprisonment for ten years and to pay a fine of Rs. 5,000/-. There were three other accused, namely, Jasbir Singh, DSP, District Police Officer, Ropar, Balwant Singh. Inspector, District Police Officer, Ropar and Darshan Singh, ASI, Ropar, who were also tried along with the appellant, but all these three persons were acquitted of all the charges.

2. This is an application for suspension of sentence in the aforementioned case filed by Avinder Bir Singhappellant. Mr. Tung, learned counsel for the appellant has argued that the evidence against all the accused was the same but only the appellant has been convicted, whereas the other three accused have been acquitted. He has further argued that Harpreet Singh alias Lucky, who is alleged to have been falsely implicated for the murder of Kulwant Singh and his family, has not been examined as a prosecution witness. Learned counsel contends that

nearly 200 witnesses were examined but Harpreet Singh was not examined. Learned counsel has further argued that even the mother, father and other close relations of Harpreet Singh did not support the prosecution version and all of them were declared hostile during the trial. According to the learned counsel, the appellant is entitled to be granted bail during the pendency of the aforementioned appeal.

3. Mr. Rajan Gupta, learned standing counsel for CBI has argued that the appellant has undergone just over seven months of actual sentence and as the sentence awarded is ten years under Section 194 of the Indian Penal Code, therefore, he should not be granted bail at this stage.

4. Mr. Navkiran Singh, learned counsel for the complainant has argued that the appellant along with his other coaccused was involved in the false implication of Harpreet Singh who is alleged to have murdered Kulwant Singh and his family members and, therefore, the sentence against the appellant should not be suspended.

5. A perusal of the judgment of the learned Sessions Judge shows that nearly 200 witnesses have been examined by the prosecution. However, surprisingly the star witness i.e. Harpreet Singh @ Lucky was not examined. The allegations against the appellant are that he along with other coaccused got Harpreet Singh falsely implicated in a case for the murder of Kulwant Singh and his family members. Moreover, even the parents and other close relations of Harpreet Singh did not support the prosecution version. A perusal of the judgment also shows that the Special Public Prosecutor for the C.B.I. admitted during the course of arguments that there was no evidence against the ASI Darshan Singh that he connived with the appellant or has prepared false record.

6. In the present case, the allegations against the appellant are that he prepared false records to have Harpreet Singh implicated in a case of murder. It is further noticed from the impugned judgment that a large number of prosecution witnesses had turned hostile and did not support the prosecution version. The appellant, who was posted as SI/SHO of Police Station Ropar, could not have prepared false record (zimnis) without the support of other police officials. All the other accused, with whose connivance the appellant is alleged to have forged and fabricated the zimins have been acquitted by the learned Sessions Judge, Rupnagar.

7. In view of the above and without expressing any opinion on the merits of the case, I suspend the sentence of the appellant during the pendency of the appeal. He shall execute bail bonds to the satisfaction of Chief Judicial Magistrate/Duty Magistrate, Ropar.

C.M. stands disposed of accordingly.