

Criminal Miscellaneous No.M-11022 of 2015 (O & M)

Date of Decision: *April 24, 2015*

Kuldeep

..... PETITIONER

VERSUS

State of Haryana

..... RESPONDENT(S)

. . .

CORAM: **HON'BLE MR. JUSTICE JASPAL SINGH**

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1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

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PRESENT: - Mr. R.S. Sihota, Senior Advocate, with
 Mr. B.S. Rana, Advocate, for the petitioner.

 Mr. Charanjit Singh Bakhshi, Additional
 Advocate General, Haryana.

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Jaspal Singh, J

1. Instant petition preferred by Kuldeep son of Moti

Ram, under Section 439 Cr.P.C. seeking bail in case FIR

No.435 dated August 12, 2014 under Sections 302, 201, 34 IPC,

registered at Police Station, Sadar, Palwal.

2. This case stands registered on the basis of complaint lodged by Hari Chand (complainant) unfolding that on August 11, 2014 at about 9:00 PM, his brother Mukh Ram @ Mukha, aged about 45 years, went to his tubewell for watering his fields. On the next morning at about 7:00 AM, he himself went to tubewell for serving tea to his brother where he found that his brother Mukh Ram has been murdered. He spotted injuries on his neck and left ear with sharp edged weapon. He further alleged that Hira Bhati, his relatives and some villagers are involved in commission of murder of his brother as earlier Hira Bhati and his brother also committed murder of his cousin Mahi Pal and said case was being pursued by Mukh Ram.

3. Contention of learned counsel for petitioner is that neither petitioner has been named in FIR nor there is any reliable evidence to connect him with commission of murder of Mukh Ram. Infact, he has been falsely implicated by complainant in connivance with police being brother of Deepak Kumar who was arrested by police. After about a week of registration of case, Sunil son of Changa and Hari Chand @ Lala got recorded their supplementary statements whereby Deepak as well as Kuldeep (petitioner) were implicated. Otherwise, they have no role to play. There is no evidence

except disclosure statement (undated) of co-accused Deepak whereby he has simply recorded that Kuldeep extended cooperation to him while concealing axe and ashes of his clothes, and further specifically stated that no other person except him is involved in commission of murder of Mukh Ram. Simply on the basis of disclosure statement of co-accused, petitioner was arrested on August 25, 2014. Since then, he is suffering incarceration. Though, challan has been presented, yet disposal thereof is likely to take sufficient long time. Petitioner is ready to comply with all the terms & conditions imposed by this Court in case he is granted the concession of bail.

4. Per contra, learned State counsel has strongly opposed the petition and has submitted that there are serious and specific allegations against petitioner and he does not deserve the concession of bail.

5. This Court has given a deep thought to aforesaid submissions made by learned counsel for parties and gone through record available.

6. Undisputably, name of petitioner does not figure in FIR and at the time of registration of FIR, complainant Hari Chand only suspected that Hira Bhati, his relatives and some villagers are responsible for committing murder of his brother

Mukh Ram. Subsequently, after about a week, he got recorded his supplementary statement with ASI, in which, it has been simply stated that both the sons of Moti Ram, namely, Kuldeep and Deepak are involved in commission of murder of his brother Mukh Ram. There is nothing in his statement how he came to know about their involvement. So far as Deepak is concerned, after his arrest, he was subjected to custodial interrogation and in pursuance of disclosure statement suffered by him during his interrogation, he got recovered an axe (kulhari) whereas there is no such recovery from petitioner Kuldeep.

7. Disclosure statement of Deepak in which it finds mention that Kuldeep also extended help to him in destroying/disposing off Kulhari and clothes but said disclosure statement is undated. Even prior to that, Deepak was subjected to custodial interrogation on August 22, 2014. He stated that Kulhari as well as blood stained clothes were taken by him to the house of his maternal uncle Man Singh at village Baghpat Ranav, District Ghaziabad (U.P.), and can get the same recovered but no recovery in pursuance thereof could be effected. Thereafter, Deepak was subjected to custodial interrogation on August 24, 2014, who allegedly suffered

disclosure statement to the effect that he has kept concealed clothes as well as Kulhari at the house of in-laws of Kuldeep at village Medhpur, and subsequently, got recovered said Kulhari. But, as per recovery memo, Kulhari was recovered from a pond on the demarcation of co-accused Deepak on August 23, 2014. So, if there is any role, that is, of co-accused Deepak and not of the petitioner who is in custody since August 25, 2014. Disposal of trial is not likely in the near future. In the given circumstances, this Court is of considered view that case is made out to extend the concession of bail to petitioner.

8. Petition is accordingly allowed. Petitioner is ordered to be released on bail subject to his furnishing personal/surety bonds to the satisfaction of Trial Court/Chief Judicial Magistrate, Palwal.

9. Any observations made in this order shall have no bearing on merits of main case as these have been made for limited purpose for disposal of instant petition.

April 24, 2015
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(Jaspal Singh)
Judge