

CRM-M-12749 of 2015 1

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

**CRM-M-12749 of 2015
Date of decision : 15.07.2015**

Dinesh Kumar

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Bipan Ghai, Sr. Advocate
 with Mr. Vishvajit S.Virk, Advocate
 for the petitioner.

Ms. Neelam Kashyap, DAG, Haryana.

Mr. Akshay Jindal, Advocate
for the complainant.

DARSHAN SINGH,J(Oral)

1. Learned State counsel has placed on file the affidavit of Mr. Jitender Gahlawat, Deputy Superintendent of Police, Karnal with respect to the cause of death of deceased Rakesh Kumar and Ravi Kumar.

2. This petition has been filed for grant of the regular bail by petitioner Dinesh Kumar in case FIR No.564 dated 04.08.2014, for offence under Sections 302, 201, 34 of Indian Penal Code, registered at Police Station Sadar Karnal, District Karnal.

3. Learned counsel for the petitioner contended that the

occurrence has taken place on 28.07.2014 in the morning. The matter was not reported to the police for three days. On 31.07.2014, only a D.D.R was lodged levelling no allegations against the petitioner. On 04.08.2014 by introducing the last seen evidence, the case has been got registered against the petitioner and his co-accused Deepak and Satish. He contended that the last seen evidence introduced by the prosecution is not believable. He further contended that even as per the affidavit filed by the Deputy Superintendent of Police, Karnal, the cause of death in this case is drowning, whereas, in the disclosure statements, it has been recorded that the deceased was strangled. So, there is a major contradiction in the case of the prosecution with respect to the cause of death. He further contended that the petitioner was arrested in this case on 04.08.2014. The conclusion of the trial will take time. Hence, the petitioner is entitled for grant of bail.

4. Learned State counsel assisted by learned counsel for the complainant contended that there is a strong last seen evidence against the petitioner. The present petitioner along with his co-accused has taken the victims from their house on the day of occurrence. They were also seen near the place of occurrence by Karan Singh Bhukal and Ram Mehar. They were scuffling with the deceased. He contended that mere this fact that the cause of death in this case was drowning is no ground to create any dent in the prosecution case, as the drowning can be even by throwing the deceased in the canal. He further contended that even in the disclosure statements, accused have mentioned that the victims were strangled. When they became unconscious, they were thrown in the

canal. So, the death could be due to drowning in these circumstances. He further contended that it is a case of double murder. So, the petitioner does not deserves the concession of bail.

5. I have duly considered the aforesaid contentions.

6. As per the prosecution allegations, on 28.07.2014 in the morning, deceased Ravi Kumar and Rakesh Kumar accompanied the accused and they all five consumed liquor on the bank of SYL canal. The accused scuffled with the victims, which was witnessed by Karan Singh Bhukal and Ram Mehar. They did not returned home and their dead bodies were recovered from the canal.

7. As per the prosecution allegations, the petitioner and his co-accused were last seen in the company of both the deceased. There are specific allegations that both the victims were taken away by the petitioner and his co-accused in the morning of 28.07.2014. The prosecution has also recorded the statements of PW Karan Singh Bhukal and Ram Mehar, who has seen the victims and accused on the bank of SYL canal and they were scuffling. They had pacified them, but thereafter, the dead bodies of both the victims namely Ravi Kumar and Rakesh Kumar were recovered from the canal.

8. The contentions raised by learned counsel for the petitioner that the last seen evidence is not believable and cause of death contradicts the prosecution story are the contentions touching the merits of the case. It is settled principle of law that at the stage of deciding the bail application, it is not desirable to meticulously judge the merits of the case, as it may cause prejudice to either of the parties. Only the broad

allegations and material brought on record is to be looked into for the limited purpose.

9. Thus, keeping in view the serious allegations against the present petitioner for causing the double murder, he does not deserves the concession of regular bail.

10. Consequently, the present petition is devoid of merits and is hereby dismissed.

15.07.2015

s.khan

**(DARSHAN SINGH)
JUDGE**