

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M- 16605 of 2015
DECIDED ON: JULY 07, 2015

Paviter

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. J.S. Bedi, Sr. Advocate with
Mr. Sunil Sihag, Advocate
for the petitioner.

Mr. Rohit Arya, AAG, Haryana.

Jaspal Singh, J.(Oral)

Instant petition has been filed by Paviter son of Krishan (now confined in District Jail, Rohtak) under Section 439 Cr.P.C seeking bail in case FIR No. 42 dated February 10, 2013 under Sections 302, 201, 120-B and 34 IPC registered at Police Station Sadar, Rohtak, District Rohtak.

2. Instant FIR has been registered at the instance of Karambir, Sarpanch of village Bahu Akabarpur who has unfolded that on February 10, 2013 at about 7.15 AM, he alongwith Naresh son of Joginder Singh was going to the fields and when they reached near Hisar-Rohtak road near hand pump, they spotted a dead body of unknown person lying on kacha portion of the road. On seeing the dead body appearing to be of an Army Man (Force) suspected that some unknown persons due to some unknown grudge have committed the murder of an unknown person by strangulation and threw away the dead body with a view to destroy away the evidence. On the basis of his statement, investigation was put into motion.

3. During investigation, investigating officer recorded the statements of

various witnesses including that of Narain son of Bhim Singh, Shakuntla wife of Jai Pal, mother of deceased and Bijender brother of deceased, got identified the dead body to be that of Satish son of Jai Pal and subjected it to autopsy. After completion of investigation challan was presented in the Court of learned Jurisdictional Magistrate which was subsequently committed to the Court of Sessions for trial.

4. The contention of learned counsel for the petitioner is that there is not an *iota* of evidence against petitioner to connect him with the alleged commission of murder of Satish. In fact, from the testimonies of Narain as well as that of Shakuntla and Bijender, it emerges that Sudesh wife of Satish-deceased was having illicit relations with Naveen, who used to visit the house of Satish-deceased frequently. Neither, name of the petitioner figures in FIR nor any role has been attributed to him by any of aforesaid witnesses associated during investigation of this case by investigating officer. Even no suspicion has also been raised either by mother or by brother of deceased qua petitioner in the alleged commission of murder of Satish.

5. It has further been submitted by learned counsel for the petitioner that petitioner was arrested in this case on March 12, 2013. He was subjected to custodial interrogation but nothing incriminating could be recovered from him. Challan has already been presented and most of the prosecution witnesses have been examined. None of the witnesses examined by the prosecution has attributed any role with regard to involvement of petitioner in the alleged commission of murder of Satish. There is only disclosure statement of co-accused of the petitioner unfolding the involvement of petitioner, which is otherwise inadmissible in evidence. The disposal of challan would also take sufficient long time. Petitioner also undertakes to abide by all the terms and conditions imposed by this Court in case he is granted the concession of bail.

On the other hand, learned State counsel has strongly opposed the

various submissions made by learned counsel for petitioner and has submitted that petitioner actually participated in the commission of murder of Satish in conspiracy with Naveen and as such, he does not deserves the concession of bail.

7. This Court has given an anxious thought to the submissions made by learned counsel for the parties and have perused the record available on file.

8. Undoubtedly, instant FIR was registered against the unknown persons at the instance of Karambir Sarpanch. It is true that during investigation of this case, statements of Narain son of Bhim Singh, Shakuntla wife of Jai Pal, mother of deceased and Bijender brother of deceased were recorded. None of these witnesses associated during investigation of this case did utter even a single word with regard to any kind of involvement of petitioner in the alleged commission of murder of Satish. Rather entire case of prosecution as unfolded by aforesaid witnesses revolves around Naveen and Sudesh wife of deceased. It was only when Naveen was subjected to custodial interrogation, he allegedly disclosed the alleged participation of petitioner.

9. Admittedly, except alleged disclosure statement/confessional statement of Naveen, there is no evidence qua petitioner. It is a debatable question whether confessional statement alleged to have been suffered by Naveen co-accused of petitioner is admissible in evidence or what is its evidentiary value. But one thing is evident that petitioner is cooling his heels behind bars for the last more than two years and 3 months i.e. since March 12, 2013. The disposal of challan would take sufficient long time and this Court is of the view that no purpose would be served by keeping petitioner behind the bars.

10. Taking into consideration all aforesaid aspects and without expressing any opinion on the merits of the case, instant petition is allowed. Petitioner is ordered to be released on bail at the satisfaction of learned trial Court.

11. However, any observation made in this order shall have no bearing on the merits of main case.

JULY 07, 2015
sham

(JASPAL SINGH)
JUDGE