

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

CRM No.M-35738 of 2015

Date of decision: 15.12.2015

Akash Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Anil Kumar Sharma, Advocate for the petitioner.

Ms. Harsimrat Rai, DAG, Punjab
assisted by ASI Tilak Raj.

Mr. S.S. Rangi, Advocate with
Mr. Amanjot Singh Sidhu, Advocate
for the complainant.

Jitendra Chauhan, J. (Oral)

By filing the present petition under Section 439 of the Code of Criminal Procedure, the petitioner has sought regular bail in case FIR No.53, dated 08.05.2013, registered under Sections 457 and 302 of the Indian Penal Code (for short 'IPC'), at Police Station Sudhar, District Ludhiana.

It is contended that the petitioner is not named in the FIR and he has been falsely implicated in the instant case being friend of co-villager Titu, who at some point of time was in the employment of deceased Shingara Singh and has gone missing since the present

occurrence. He further states that beyond this, there is no evidence on record to connect the petitioner with the commission of crime. In fact, the petitioner has been made a scapegoat to save the actual culprits who are influential persons and have interest in the property of the deceased, Shingara Singh. The learned counsel for the petitioner further refers to the testimony of PW-4 Kuljit Singh and PW-6 Narinder Singh, state that the family members of deceased Shingara Singh have not supported the case of the prosecution qua the petitioner. The petitioner is in custody since 22.05.2013.

On the other hand, the learned State counsel opposes the prayer of bail and states that in pursuance of the confessional statement made by the petitioner, blood stained clothes and heavy sickle (dattar) were recovered from the petitioner. The challan stands presented. Out of total 22 witnesses, 08 PWs have been examined.

The learned counsel for the complainant states that the investigation in the matter was carried out in a shoddy and in a hurried manner. He states that the investigation carried out in the matter is against the suggested course of action of Superintendent of Police (D), Ludhiana. The SP (D) after the spot inspection had charted out seven points which were to be examined by the concerned SHO. However, the SHO without adverting to the points suggested by the SP(D), completed the investigation and filed the challan in a hurried manner. Even, the learned counsel doubts the

case of the prosecution as projected and states that the crime could not have been committed by the petitioner alone. He further states that no valuable articles from the house was removed. The learned counsel further contends that dissatisfied with the manner of investigation, the complainant filed a petition under Section 482 Cr.P.C., in this Court which was dismissed. Aggrieved against the order of this Court, the complainant has approached the Hon'ble Supreme Court wherein, the Hon'ble Apex Court suggested that the complaint was free to move an application for further investigation under Section 173 Cr.P.C, if facts so warranted.

I have heard learned counsel for the parties and perused the record.

The incident took place in the intervening night of 7/8.05.2013. The petitioner was picked up on 22.05.2013 and the challan was prepared on 21.06.2013. Earlier the FIR was registered against some unknown person and later on, the petitioner was arrested solely on the ground that he being a friend of Titu who was in the employment of the deceased, is not traceable after the date of incident. The challan stand presented. In the connected petition bearing CRR No. 1667 of 2015, the further proceedings before the trial Court have been ordered to be stayed by this Court. Considering the hurried manner in which the challan has been prepared and presented and keeping in view the apprehension raised by the

complainant and the fact that the trial shall not further progressing, therefore, without adverting to the merits of the instant case, at this stage, the Court feels that the present petition deserves to be allowed. Accordingly, the petitioner be admitted to bail during the pendency of the trial, on his furnishing bail bonds and surety bonds, to the satisfaction of the trial Court.

Anything said herein above shall not be construed as an expression of opinion on the merits of the case.

15.12.2015

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(JITENDRA CHAUHAN)
JUDGE