

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

**Criminal Misc.No.M-42264 of 2015
Date of Decision: December 17, 2015**

Avi Kumar @ Sonu

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr.B.S.Saroha, Advocate,
for the petitioner.

Mr.K.S.Pannu, DAG, Punjab.

Naresh Kumar Sanghi, J.(Oral)

Prayer in this petition, filed under Section 439, Cr.P.C., is for grant of regular bail to the petitioner, Avi Kumar @ Sonu, who has been booked for having committed the offences punishable under Sections 148, 201, 302 and 506 read with Sections 34 and 149, IPC, in a case arising out of FIR No.227, dated 31.08.2015, registered at Police Station, Sadar, Ferozepur.

Learned counsel contends that the whole case of the prosecution is based upon the circumstantial evidence; the only piece of evidence to connect the petitioner is the statement of one Arun Kumar before whom Rajesh, the co-accused of the

petitioner, had allegedly suffered extra-judicial confession admitting his guilt; the statement of Vikram, taxi-driver, would not reveal that Jaswant Rai was murdered by the petitioner and his co-accused; there is no legal material to connect the petitioner with the murder of Jaswant Rai; during investigation also, the petitioner had disclosed to the police that he was not privy to the murder of Jaswant Rai; Khem Chand @ Johri and Rohit @ Kaka, co-accused of the petitioner, have already been granted bail by the Court of Session; and that after completion of the investigation, the charge-sheet (*challan*) has been presented before the Court below.

Learned counsel for the State, after perusing the police file and taking instructions from ASI Ashwani Kumar, Police Station, Sadar, Ferozepur, very fairly concedes that during interrogation, the petitioner disclosed that he was called by his co-accused to dispose of the dead body of Jaswant Rai. He further submits that Arun Kumar did state before the police that Rajesh Kumar, co-accused of the petitioner, had disclosed that Rajesh and others in connivance with the petitioner committed the murder of Jaswant Rai. He further contends that Vikram, taxi-driver, had also disclosed to the police that he was called to Dharamshala by the petitioner and his co-accused.

After hearing learned counsel for the parties, this Court

finds that admissibility of the statement suffered by Rajesh, co-accused of the petitioner, would be a moot point during trial. The statement of Vikram to connect the petitioner with the murder of Jaswant Rai would also be a moot point in this case. Except the statements of Arun Kumar and Vikram, there is no evidence to connect the petitioner with the murder of Jaswant Rai. Learned counsel for the State though referred to the statements of Gaurav Arora and Bhupinder Pal wherein they had disclosed to the police that they heard that the petitioner and his co-accused had committed the murder of Jaswant Rai. This Court after perusing the said statements has also doubt with regard to the admissibility of hearsay evidence and as such, the present petition is allowed. Petitioner-Avi Kumar @ Sonu, s/o Satish Kumar, r/o near Kalgidhar Gurudawara Mohalla Bawaian Wala, Street Mahjbia Wala Ferozepur City, Punjab, is directed to be released on bail during pendency of trial of the present case, subject to his furnishing bail bonds to the satisfaction of learned Chief Judicial Magistrate/Duty Magistrate, Ferozepur.

Whatever has been observed by this Court is for limited purpose of deciding the present petition.

December 17, 2015
seema

(Naresh Kumar Sanghi)
Judge

